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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

WEDNESDAY, OCTOBER 22, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsview L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, E. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Substitutions:

Cordiano, J. (Downsview L) for Mr. McGuigan
Epp, H. A. (Waterloo North L) for Mr. Knight

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Laverty, P., Director, Rent Review Policy Branch, Rent Review Division

From the Rent Review Advisory Committee

Elms, R.

Laird, K

Andrade, J.



LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 22, 1986

The committee met at 4:10 p.m. in room 151.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: I call the meeting to order. I should comment on the cancellation of the committee on Monday and apologize to people, other than members who were here and prepared to help out, but there was an emergency debate in the Legislature and a canvass of the members indicated that there was general support for cancelling the meeting that afternoon. We hope it did not cause people too much aggravation.

We are proceeding through the explanation of the proposed amendments. Before we get into that again, would it make it easier for members of the committee if we agreed to a starting time for the committee hearings in the afternoons so that some members are not sitting here for 20 minutes in anticipation of when to start? I know members are busy after question period. Would four o'clock be an appropriate time? We will not start before 4 p.m. Even if the question period ends at 3:30 p.m., we will set four o'clock as the time. If at all possible, we should get the critics here at four o'clock. That will help people from the Ministry of Housing, the Rent Review Advisory Committee and others.

Let us set that down as a condition.

Mr. Gordon: Mr. Chairman, would you like a motion to that effect?

Mr. Chairman: That would be helpful.

Mr. Gordon moves that the committee begin at 4 p.m. on Monday, Wednesday and Thursday.

All those in favour of the motion?

All those opposed?

Motion agreed to.

Mr. Reville: On a point of order, Mr. Chairman: I wonder whether somebody from the minister's staff could indicate which days he will be able to be with us.

Mr. Chairman: Is there anyone here who knows the minister who could give us that answer?

Mr. Laverty: I do not think we could provide you with a schedule right now on when the minister would be available, but we will certainly convey to him the request of the committee for that information.

Mr. Gordon: In all fairness to the minister and to the committee, once clause-by-clause begins, we expect the minister to be here every day. At the moment, however, given the fact that we are looking at amendments, it is quite understandable that at times the minister will have certain other responsibilities that he has to take care of. I think the committee recognizes this, although we would like to see him before we finish looking at the amendments that have been introduced. I hope it will not take very much longer, especially if the Liberals will co-operate on the other side.

Mr. Epp: How can you say that with a straight face?

Mr. Gordon: I have watched you for so many years on these committees that I have adopted some of your style.

Mr. Chairman: If we continue to move at the pace to which we have been accustomed, we may even finish the explanation of the amendments by late tomorrow afternoon. That would mean we could start clause-by-clause next Monday. I am not suggesting there should be any time restriction, but that would be possible.

Mr. Gordon: That is called leading the committee. I know you are not really doing that; you are just suggesting that you personally would like to move along. We are not going to haggle over commas.

Mr. Chairman: No; or delays at the beginning of the committee.

Mr. Gordon: At the same time, Mr. Chairman, with all due respect to you, I know you have been here for 15 years and you know all the tricks and all the good lines; but in all fairness, it is important that these 100 amendments introduced by the Ministry of Housing and the minister be fully explained and understandable. If we do that, when we get to the clause-by-clause, perhaps we will be able to move along more expeditiously than we have done to date. I would rather have the explanation now than spend days talking about one section of the bill.

When I had the opportunity of taking the health protection bill, I am not going to cast any aspersions, but I can remember some of the people who are sitting on the other side today who spent about three weeks talking about two amendments. It was quite obvious there was no need for that. We do not want to do anything like that, but we want to be sure we understand these government amendments so that we can move along with dispatch. That is why I resent any implication that when we are asking about ideas, somebody would even suggest we are haggling over commas. Let us be reasonable.

Ms. E. J. Smith: I just got back, and I assume what is being suggested here is that we will ask questions for clarification only and have no debate. Is that correct?

Mr. Chairman: I think it is time to begin a discussion of the proposed amendments. If my recall is correct, we are down to section 65, which deals with the date of January 1, 1987.

Mr. Laverty: First, I would like to introduce John Andrade, who is a landlord representative on the Rent Review Advisory Committee. On my immediate right, Robert Elms is a tenant representative. We will be joined in a few minutes by Kathy Laird, who is also a tenant representative.

Mr. Chairman: Thank you. Mr. Elms and Mr. Andrade, welcome to the committee.

Mr. Laverty: In the original draft of section 65, January 1 was mentioned as the date after which no applications could be made by a landlord to rent review for a rent increase unless he had filed a statement with the rent registry.

As you recall, in our discussion of section 55, October 1 as the date for registration of all units of seven units and more has had to go by the way because of the timing of when the legislation may be passed. The amendment to section 65 is similar. It allows 90 days after the required date of filing, after which a landlord cannot seek rent review unless he has filed a statement. The original period was between October 1 and January 1. Now section 65 states 90 days, which is a more or less equivalent period.

Mr. Chairman: Are there any questions on that proposed amendment?

Interjections.

Mr. Chairman: Mr. Laverty, despite appearances to the contrary, you have the floor.

Mr. Laverty: There are two amendments to section 66. The first is a rewording of clause 66(e). In the initial act, the reference was simply to a notice given under section 89. However, in section 89, there are two separate notices. One is the notice in subsection 89(2), the notice by the minister to the landlord, which is the one that will be recorded in the registry. The second is the landlord's notice to the tenant.

In that we are looking at entering information into the registry, it seemed most direct to take a copy of the notice the minister is providing to the landlord as the one that would also go to the registry for the purposes of updating.

16:20

The second amendment is to add clause 66(ea), and this relates to section 88, which deals with chronically depressed rents. Under subsection 88(3), upon vacancy or consent of a tenant, the rent can be raised to the chronically depressed threshold. Where such an arrangement is approved by the minister, it will be entered into the registry for future information.

Mr. Reville: Are you confident your suggested amendment to section 66 will catch any and all information that flows from a rent review or other action of the minister so that all the information a tenant would want to know will be on the registry? As I see it, you refer to two sections of the bill that speak of notices with respect to phase-in and what not under various provisions of the bill. Can you think of any other sections that might have to be included in this way?

Mr. Laverty: Had we thought of them, we would have added them by way of amendments. If there are additional matters to be added, they could be proposed as we go through the clause-by-clause consideration.

Mr. Reville: It seems to me the intention is to make sure the registry contains that information.

Mr. Laverty: The registry should contain all the information one would need to establish the maximum legal rent at any time, within the limits of practicality.

Mr. Chairman: Is there anything further on clause 66(e) or clause 66(ea)? All right, subsections 70(2), 70(3) and 70(4).

Mr. Laverty: In section 70, the initial act merely refers to four per cent increases. As you are aware, in section 68 there is a proposal that the guidelines change effective January 1, and it is possible the interim period covered by section 70 will extend into the period when the new guideline is applicable. For that reason, we refer to the increase permitted by clauses 68(1)(a) and (b), so we would cover any period going into next year. That is the purpose of the amendment.

Mr. Gordon: How did it read before? I do not have the previous bill.

Mr. Laverty: Subsection 70(2) read: "Where a notice of rent increase to increase the rent charged for a rental unit by more than four per cent of the last rent that was charged for an equivalent rental period has been given before this section comes into force, to take effect on or after the first day of August 1985, where the landlord makes an application permitted under clause (3)(b), the rent increased specified in the notice may be charged and collected by the landlord until such time as an order setting the maximum rent that may be charged for the rental unit takes effect."

Mr. Gordon: What did you indicate was the primary reason for that change?

Mr. Laverty: The initial clause refers to increasing the rent by more than four per cent. Should the guideline be changed, as proposed in section 68, then there would be four per cent for the period up until the end of this year and then a new guideline in the next period. Thus, if a landlord were charging the legal guideline into next year, he would not have to go through a rent review justification process for that, because it is the purpose of a guideline to avoid the necessity of a rent review. To be consistent, if you are changing the guideline, then a guideline increase should not trigger a rent review. That is the logic. It is a matter of consistency.

Mr. Pierce: Just a question, Dr. Laverty. In the old proposed bill, subsection 70(2) is written in such a way that almost anybody can understand it. In the new proposed subsection 70(2), you now start making references to something further back in the book, and it almost gets to the point where, if you are not a lawyer or if you do not employ a lawyer, you are not going to understand the bill. Is this really all that necessary? Have we so lost touch with the written word that we cannot write things so that people can understand them without having to search out all the information throughout the whole document?

This is only one section. It is probably only one of 125 that are almost identical. The reference has to be made to four other sections or four other clauses in the document before you can determine whether the clause you are reading is really applicable to your situation.

Mr. Laverty: Not being a lawyer myself, I have some sympathy for that, although I also have some sympathy for the lawyers who have to draft the legislation to reflect the desires of various people for the inclusion of certain procedures in the legislation. I think it does highlight, however, the importance we place within the program on the production of educational material and a participation in an education process with landlords and tenants so that indeed they will understand the various provisions of the act.

That commitment has been made. Obviously, it is something we will be held accountable for.

Mr. Pierce: It still does not make it any easier for the average tenant or the average landlord to understand the bill without all that assistance, by ministry personnel, by lawyers or by large representative groups of landlords or tenants.

Mr. Laverty: We hope that the additional educational material will be at least as available as the legislation, and that anyone who wished to consult as to what this section and other sections we might have in mind refer to would have that written assistance. Where they still do not understand, as may well be the case, we are committed to assisting various landlords and tenants who inquire of the rent review program about what the meaning of the legislation is. Thus, both written and oral information shall be provided in order to assist people in understanding the act.

Mr. Chairman: Mr. Pierce, that was a most appropriate interjection. I assume your failure to attach any blame to economists was an oversight and not deliberate.

Mr. Pierce: I am both a landlord and a tenant. I am still having a lot of difficulty with this bill. I have had the opportunity to sit in on a number of the hearings and on a number of the procedures, and I am very hard pressed. If I had to sit down and explain to some tenant or some landlord in 50 words or fewer whether, under this bill, he has a case, I doubt whether I would be able to do it. I know that every member of this Legislature is going to become an Ombudsman between landlords' tenants and tenants' landlords, and we are heading down a deep, dark tunnel where nobody can see the daylight. That is my own observation.

16:30

Mr. Elms: I was just going to say that was one the things both landlords and tenants on the committee had also been concerned with. Dr. Laverty referred to the educational package. One of the things we talked about doing in an educational package--and I was a member of the subcommittee that dealt with education--was to have the education done in such a way that if you were a tenant, the package would be directed basically to those sections in the bill that pertained to the considerations in the building you were in.

If you were in a building that was built after the bill was passed, to help simplify a bit, the educational package available to you would not talk about all the problems of pre-1976 and pre-1985 buildings. It does not fully answer the problem that you were talking about. We are aware of that, and this is part of the means by which we hope to deal with it.

Mr. Reville: As a comment on what Mr. Elms has said, it seems to me you are going to have to develop a large number of educational packages, given the large number of categories this bill creates. I will be interested to see the size of the shelf that those packages will be housed on. My question relates to section 72.

Mr. Epp: Before you have another question, can I address this point for a moment?

Mr. Reville: Certainly.

Mr. Epp: I have similar concerns. I wonder whether in all its complexity, there is a way of simplifying the bill somewhat and still keeping intact the legal niceties that have to be incorporated in it. I am sure the educational packages Mr. Elms has referred to will be necessary, but has the ministry addressed itself to presenting a bill that, with its complexities, can be made more understandable to this committee and particularly to the public? Mr. Pierce is also addressing that point, of whether there is a way of simplifying the bill.

Mr. Chairman: Is this on the same point, Ms. Smith? Mr. Reville has the floor.

Ms. E. J. Smith: Yes, it is on the same point. The only way to look at this whole bill is as if were an income tax bill. It is written with a great deal of complexity because otherwise people are going to spend a lot of time trying to get around it.

On the other hand, when I think about this bill, I consider it is only possible as a post-computer bill. When you go and hit the computer, indicating your building was built in such-and-such a year and is in such-and-such a category, what is going to come out as applying to you is going to be understandable. And whereas the whole bill has to be together as one bill to be presented to the house, not all this bill is going to apply to any one person. People will quickly eliminate most of the bill when they present their own cases.

Mr. Reville: I can only reflect that politics in Ontario have changed a great deal when members of the government are concerned about the incomprehensibility of their own legislation. It is a good thing.

Mr. Epp: I was concerned about you understanding it.

Mr. Reville: My question, however, was about subsection 70(2). I understand the amendment and why it is there, but all of a sudden the rest of the clause starts out of the page at me. Does that clause mean a landlord can issue a rent increase notice for any amount and can collect that rent prior to an order taking effect?

Mr. Laverty: No. Section 70 basically applies to the post-1975 buildings and looks after the transitional arrangements. By the time this act is through the Legislature, a considerable time will have gone by since August 1, 1985, as you can appreciate. The government, none the less, is committed to the principle of making the inclusion of post-1975 buildings effective as of August 1, 1975.

However, the government feels that it would be unfair to roll the rent back for that period to August 1, 1975, pending an order, due to the retroactive nature of the inclusion of the post-1975 buildings. Therefore, it is suggesting that in this one case only, the amount of the initial rent increase that has been requested should be allowed to stand until the decision is made. This is essentially the same as the procedure that was used in 1975 with regard to the initial imposition of rent review, which as you may recall was retroactive for a period of approximately seven months.

Mr. Reville: That covers the situation in a post-1975 building in which the landlord may have issued a rent increase notice of, say, 25 per cent following August 1, 1985.

Ms. E. J. Smith: No. That does not fit clauses 70(3)(a) or (b).

Mr. Reville: I would rather get the answer from Mr. Laverty, if you do not mind.

As you might expect, Mr. Laverty, I have had a lot of calls from people who live in newer buildings who are still not covered by the legislation, although the legislation is emerging even as we speak, and who have been getting large rent increases.

That is the situation contemplated in subsection 70(2); that those rent increases can be collected and then you have to get them ratified by the rent review subsequently.

Mr. Laverty: As you realize, the rent increases have already been collected, and the question is what the status quo should be in terms of awaiting the judgement. If we were to require that all that money be returned immediately and then go through a rent review process, you can appreciate that a large number of these buildings would be in receivership, both because of the length of time that payment is made and the difficulties that may ensue in collecting the amounts once the rent review decision has been made. These are the considerations, given the retroactive nature of the legislation; this is why, in this case, we think less damage is done by a process which allows the original amount to be retained by the landlord.

Mr. Reville: Your comment about receivership is quite chilling considering the timeliness of that remark. That subsection 70(2) is restricted to new buildings is an inference drawn by the wording, I take it, and by other legislation that currently exists.

Mr. Laverty: Yes. The reference in subsection 70(1) is the reference to clauses 134(1)(c) and (d) of the Residential Tenancies Act. In terms of your cross-referencing, you will find that refers to the buildings that are exempt because they were first rented from January 1, 1976, onwards.

Mr. Reville: Where do we find that in this bill?

Mr. Laverty: In subsection 70(1).

Mr. Reville: I see that.

Interjection.

Mr. Reville: We are now hearing from Kumi. A small person.

Mr. Chairman: I should have mentioned that we have been joined by Kathy Laird and her "executive assistant" to aid the committee today. Welcome to the committee.

Ms. Laird: Thank you.

Mr. Reville: Her executive assistant is wearing a little yellow jumpsuit and is named Kumi. I understand that if Kumi favours us with some comments they will be quite loud.

Mr. Chairman: Is there anything else on section 70? Section 71, Mr. Laverty?

16:40

Mr. Laverty: There are three more amendments to section 70, in subsection 70(3), in clause 70(3)(a) and in clause 70(4)(a), which are similar in nature to the one I have already gone through.

Mr. Gordon: I presume that we can go through them? You say similar but--

Mr. Laverty: In fact, they are exactly the same. In subsection 70(3), we are striking out "four per cent" and inserting in lieu thereof "the increase permitted by clause 68(1)(a) or (b), whichever is applicable," so it is exactly the same wording.

In clause 70(3)(a), we are striking out "a four per cent increase" and substituting "the increase permitted by clause 68(1)(a) or (b), whichever is applicable," and in clause 70(4)(a) we are striking out "a four per cent rent increase" and substituting "the increase permitted by clause 68(1)(a) or (b), whichever is applicable."

Mr. Bernier: I have just one question on those amendments. It is hard to believe that the bill was printed with the four per cent there in the first place. On second printing of the bill, we get a complete change. What happened in that time frame?

Mr. Laverty: Some time has passed since Bill 51 was introduced. Initially, it was contemplated that the bill would be approved by the Legislature well before the end of 1986, which is the date at which the bill proposes to terminate the four per cent and to replace it with a guideline calculated on a residential complex cost index. The passage of time has necessitated the change.

Mr. Bernier: More deals were made.

Mr. Chairman: Is there anything else? We will move on to subsection 71(5).

Mr. Laverty: Under the initial legislation, subsection 71(5) said that any party to the application may submit material and make representations in respect of the application not later than 40 days before the effective date of the first rent increase applied for. The way that was written, it would have meant that had the tenants submitted the response to the landlord's initial application and his initial filing of information on the very last day, the landlord would have had no time whatsoever to respond to the tenant. The amendment to subsection 71(5) ensures that the landlord would have at least an additional 20 days to respond to the landlord's submission where the original deadline of 40 days did not provide at least 20 days.

The purpose of the amendment is to give the landlord some time to respond to the tenant's submission. As you are aware, the bill does provide the tenants 50 days to respond to the landlord.

Mr. Chairman: Are there questions on subsection 71(5)? If not, section 73.

Mr. Laverty: In the initial bill, section 73 indicated that where financing was the sole ground on which the landlord was applying for a rent increase, the minister would use the guideline amount plus the financing

increase in the determination of rent rather than using the operating cost allowance plus the financing cost.

This is a matter which has had a great deal of subsequent discussion within the Rent Review Advisory Committee, and we were requested to amend this so that the conditions on which the landlord would receive the guideline rather than the operating cost allowance would include cases of financing costs, financial or economic loss or on applications which do not include any amount for capital expenditures.

As you may recall, earlier there was a discussion about the reason for the one per cent differential between operating cost allowances and the guideline. At that point it was indicated that a large part of that explanation was attributed to the fact that the one per cent differential was meant to cover minor sorts of capital expenditures without having to go to rent review and that, therefore, when you go to rent review, in essence you start at base zero with regard to capital costs and thus at one per cent below.

The new section 73 retains that feature in any case involving capital expenditures. It also makes it clear that it is in those circumstances, and only those circumstances, that the one per cent reduction in the operating cost allowance would be applicable. Historically, the percentage of applications to rent review which have included capital costs in the past couple of years has been over 80 per cent, and I think verging on 90 per cent in the last year for which full information is available.

Mr. Gordon: Can Mr. Laverty enlighten the committee on the intricacies of that great debate that went on within the RRAC committee so we can have some understanding of these changes?

Mr. Laverty: It might be more appropriate to have the RRAC members themselves give you some indication.

Mr. Gordon: That is great. Maybe Robert Elms could begin, or John Andrade.

Mr. Andrade: You have to go back to the various features within the scheme of rent review which were dealt with. The criterion that both sides agreed to, certainly for the one per cent reduction, was that it was felt that a landlord who was coming to rent review for capital expenditures should not be able to come in and perhaps claim certain operating costs as capital expenditures.

As you are aware, an operating allowance system is proposed. Therefore, the idea was that there should be some recognition that within the operating cost allowance, there could conceivably be some very limited capital expenditures ongoing, year to year.

It was felt that where a landlord was applying for capital expenditures, the way you would net out his costs would be to employ a one per cent reduction. Where there is no capital expenditure involved in the application, but rather it is based on the different criteria outlined, that condition would not exist. It was felt by the committee that it was appropriate that the one per cent reduction be made in the area where we felt it was applicable, i.e., in respect of capital expenditures only.

Mr. Elms: At the time we were discussing this, we had not fully

discussed the various methods we would hope to have in place for the maintenance board, minimum property standards for the province. It is pretty true to say that all of us who are in attendance on the committee at this time were concerned that giving the extra one per cent was based on our belief that maintenance would be sure to be done and that in fact tenants would get the value for their dollar that we discussed before. Therefore, there was some hesitation about this section for quite some time on our part, until we saw more concrete discussion taking place around the maintenance board issue.

16:50

I do not mean that was the only concern, but it was certainly one of the predominant concerns, and we had no qualms philosophically with the idea we had all agreed to. It was just a matter of ensuring that both sides were going to be getting what they were looking for. That was really it.

Mr. Gordon: It was a kind of tradeoff.

Mr. Elms: No, not at all; there was no tradeoff involved whatever. We believed, as John stated after Pat's original explanation, that the extra one per cent was predominantly for small capital expenditures. We agreed to that and we stand behind it.

Reference was made here to the fact that there was some great debate about it. There was a great debate because at that time we had not sat down and discussed further some of the other issues of supreme importance to tenants; and until we had further discussions on those issues, we just did not want to proceed very much further with this. I think you can understand that.

Mr. Gordon: I can understand that.

Mr. Elms: There was certainly no tradeoff involved at all, on one side or the other.

Mr. Gordon: Given the understanding you are giving us, Mr. Elms, that there were other matters of supreme importance to the tenants, which is quite understandable, I wonder whether you could perhaps tell us a little bit about those important items. I will not call it a tradeoff.

Mr. Cordiano: Might I have a supplementary on Mr. Gordon's initial questioning?

Mr. Elms: Sorry. Did you say you will call them a tradeoff?

Mr. Gordon: No, I said I will not call it a tradeoff.

Mr. Elms: I did not hear. That is why I am asking.

Mr. Cordiano: I wonder with regard to this one point, would it be correct to say that was viewed as one per cent that would have been taken into account as ongoing maintenance, the kinds of things that need to be done on an ongoing basis, as an incentive for a landlord to do the kind of maintenance that might not have been done in the past?

Mr. Elms: We have all recognized and talked about it at great length and we are still in the process of defining which expenditures should be considered ongoing maintenance and which should be considered capital expenditures as they are defined for the purposes of the act.

You are quite right in suggesting that all of us believe there are some expenses of a capital nature that a landlord must incur on an ongoing basis, and as tenants, we do not want to have to go through a rent review process every time the landlord has to spend a little money to replace a brick in the wall or in the foyer or something.

Mr. Gordon: Could we have some idea of these supreme issues that were not tradeoffs?

Mr. Elms: The whole area of--

Mr. Gordon: You do not have to give me all of them, in the interests of time.

Mr. Elms: No. I am doing my best to do what I have been asked on many occasions to do, and that is to be concise.

Mr. Gordon: I have never found you to be anything else but that.

Mr. Elms: Thank you very much, Mr. Gordon. That is very much appreciated.

Mr. Gordon: It is true. You are usually very clear and lucid.

Mr. Elms: We have discussed the whole area--and I talked about it at some length in London--of value for the dollar. Tenants said they were not expecting a free ride; they expected to pay, reasonably speaking, their way. They want to ensure that when they have paid increases in rents to "pay their way," they will get value for their dollar.

Of course, as this bill shows, we wanted a mechanism here to ensure they would be getting value for their dollar, a mechanism to start that whole process within rent review in a meaningful way. It would not be just talked about or alluded to; it would be part of the process. That is a very large area. It would ensure that the landlord spent the money he was being allowed over and above the guideline on the capital expenditures for which it was being granted. At the same time, it would try to ensure that the one per cent he was getting as part of the guideline would itself go towards paying for those minor capital expenditures that we will call maintenance for the purpose of this act. That was the primary area of discussion.

Mr. Gordon: As a further question on that, with regard to the extra one per cent that landlords will receive--actually, the residential complex cost index is two per cent plus two thirds--but with regard to this one per cent that makes up part of the two per cent, what mechanism is there to determine that the one per cent will be used for maintenance?

Mr. Elms: That is why we were concerned that we have, as we have had and are still having, more concrete discussions with regard to the maintenance board and provincial standards. As tenants, we feel that is our protection.

Our protection is to have a board that can effectively say to all landlords and tenants in the province that a certain level of expenditure is required for the maintenance of buildings to ensure that there is maintenance and that the building is operated at a minimum level. If we have a board that states this and if we have a mechanism whereby tenants can go and appeal if the standards are not being met, then we have some assurances that the money will be spent as it was deemed necessary to be spent, on maintenance. We have never really had those assurances in the past.

Ms. Laird: I was going to add that under this piece of legislation, as opposed to the current legislation, there is a provision for tenants who challenge a statutory increase, the increase with the extra one per cent, to raise the question of whether the rental unit or the residential complex meets the standards set by the maintenance board. Until now the only question has been deterioration or improvement in maintenance.

Here we have an ability on the part of the tenants to argue that the landlord should not receive the statutory increase because the premises do not meet the standards that will be set, we hope, province-wide by the maintenance board. That could be the assurance tenants need that maintenance will be taken care of.

Mr. Gordon: There are 22 items in the building operating cost index. It seemed to me the last time I read through those 22 items that maintenance was one of them. Is that not correct?

Ms. Laird: Yes. I think maintenance is built into the operating cost allowance.

Mr. Laverty: Operating maintenance.

Mr. Gordon: If they are doing the maintenance under the two thirds, and let us suppose there is no extraordinary maintenance required that year, how do you justify the one per cent?

Mr. Elms: Unfortunately, it happens to be a problem with this part of the act that the key words are "operating maintenance costs." What we are discussing or what is being reflected in BOCI is washing the floor and that sort of thing.

However, what we are talking about with regard to the one per cent are expenditures on more than simply washing and waxing the floor, the cost of buying detergent, etc. We are talking about capital maintenance, minor capital expenditures. I gave kind of a strange example a few minutes ago. I said that if you had to replace one brick in the wall of the foyer or something of that nature, those kinds of minor capital expenditures, we would hope we could provide financing as a part of the system without having the landlord and the tenants go through a rent review hearing to do it. We are trying to be reasonable and have a system that is reasonable.

17:00

Mr. Gordon: To refresh my memory for a moment, that would be one per cent of the--

Mr. Elms: Of the total previous rent revenues.

Mr. Gordon: For the sake of example, would that be before or after expenses?

Mr. Elms: Before.

Mr. Gordon: Surely you must have described various sizes of buildings, such as a sixplex, 50 units or 100 units. Let us use some facts and figures and dollars and cents to arrive at the conclusions you arrived at. I wonder whether you can enlighten the committee about, as an example, a 100-unit apartment building. With regard to the one per cent set aside for special maintenance, how much money are we talking about?

Mr. Elms: As you have cited, it depends on the size of the building.

Mr. Gordon: Surely you must have discussed this back and forth. I see Mr. Andrade sitting there nodding with his pipe.

Mr. Elms: We did.

Mr. Gordon: Can somebody give me that so that we can move on?

Mr. Reville: I will give it to you. I have been sitting here working it out as you were speaking, because what you have said to me is interesting.

Mr. Gordon: I am open to anyone on this committee or on the Rent Review Advisory Committee enlightening us about what this one per cent is going to mean in a 100-unit apartment building.

Mr. Andrade: It depends on what you have in the proposed system. As Ms. Laird said, under the current system we have a landlord going to rent review. It may be--and this happens from time to time--that the absolute level of maintenance may be considered to be less than optimal. Under the current scheme the only question in areas of maintenance is twofold: Where are cost increases in maintenance, and has the maintenance of the building gone down?

Under the maintenance board provisions being proposed, the landlord will have to meet a province-wide test. A minimum maintenance standard will be established. It will be open to tenants at the hearing to say, "This landlord may indeed have certain cost increases, but he is not meeting this maintenance standard."

The effect is to ensure that he not only carries on maintenance in a general sense but also carries on maintenance in conformity with the maintenance standard, which is a situation you do not have now. At present in the legislation, there is no concept of an absolute level of maintenance that has to be met. That is being proposed and it will be fleshed out in great detail by the maintenance board.

The point to bear in mind is that where you have a landlord applying for capital expenditures, he gets, in effect, a one per cent reduction, because there are these small items--this one per cent of special maintenance--in place, which he should not get twice if he is coming in for capital. He loses one per cent before the minister or the board considers his capital expenditures, plus he has to meet the standards of the maintenance board, and we do not have that situation at present at all.

Mr. Gordon: It has been said before, but I think you have stated it quite clearly, that deducting one per cent is an understandable thing to happen. Given the fact that landlords are going to be applying for capital expenditures, you are probably going to have that covered anyway, would you not say?

Mr. Andrade: When you apply for capital.

Mr. Gordon: Yes, but by applying for capital, you are going to end up very likely getting that money you would have gotten.

Mr. Andrade: There is a disincentive. To use Mr. Elms's example, for a landlord who goes in under the proposed system and claims the cost of replacing that brick in the lobby, there is a one per cent net reduction, a

one per cent dilution of his rent increase before the cost of that brick gets any consideration. However, if you go to an application where no capital is being claimed, he still has to meet the tests of the maintenance board, which you do not have now.

Mr. Gordon: I am not going to get into asking questions about the maintenance board and so forth, because I understand that is being brought to us. Is that not correct, Mr. Laverty?

Mr. Laverty: Yes, we are pursuing consultations with both our advisory committee and the Association of Municipalities of Ontario as to the most desirable system to bring forward. We hope those discussions will bear fruit in the near future.

Mr. Chairman: Before we finish discussing the bill, I am sure.

Mr. Laverty: I think you can take that as assured.

Mr. Elms: Perhaps this is the right time to say, as a tenant, that we have brought to light what we think is our biggest concern here. That is that when the bill is passed, it is passed, and that in the balance we have all talked about and heard talked about so often, the maintenance board is that important to us because it will be the protection to provide what we feel we are paying for through the one per cent.

Mr. Reville: Mr. Laverty, I think you said 50 per cent of the applications to rent review involved capital cost. Do you have any prediction of what the percentage will be if your amendment to section 73 passes?

Mr. Laverty: We have not produced an estimate of that. In the fiscal year 1985-86, 89 per cent of all hearings involved capital expenditures. That is contained in the annual report to the minister by the Residential Tenancy Commission.

Mr. Reville: Do you not anticipate that under this bill there will be a lot of applications in which there are no capital expenditures but only financing costs, financial loss or economic loss?

Mr. Laverty: The only classification of buildings that may tend to have fewer financing costs under the new system are those we are bringing into rent review; namely, the buildings that have not been previously controlled, because they were rented from January 1, 1976, onward. It is a matter to be determined how many of those buildings will have capital expenditures. Obviously, we have no direct experience with those buildings.

Because of the newness of the buildings, it is possible there would be fewer replacements. On the other hand, in some of these buildings there may be a greater tendency to add items that were never there before. They would upgrade their buildings. They would bring a building on stream and subsequently bring in further improvements to it as the cash flow allowed. That is the only area in which there is a very significant difference between the old system and the new system. As I have indicated, it is very difficult to know whether the capital improvements on new buildings will be a greater or a lesser factor than the fact that they are less likely to need replacements in major capital systems. Experience alone, I suggest, will tell us the answer to that one.

17:10

Mr. Reville: You are puzzling me a bit. I thought the argument for not deducting one per cent and not using the operating cost allowance but using the guideline instead was to encourage landlords not to come to rent review on capital costs unless they were major. I do not know whether you have just made a circular argument or not. I am puzzled now.

Mr. Laverty: Under the current system of rent review, landlords do not typically come for a single percentage point. The desire is to keep that situation the same, so we do not set up a system whereby any landlord who makes a capital expenditure finds the only way he can recover is to come to us for a hearing. That would mean a very large volume of hearings for very minor increases.

Given the costs of preparation not only to the government but also to the landlords and the costs to the tenants in terms of either giving up their leisure time or in some cases giving up time during their working hours to attend rent review hearings, the nature of all those costs is such that we want to allow all buildings with capital expenditures through rent review. That is part of the consideration which led to the structure of the system we are proposing.

Mr. Cordiano: Would it be safe to say, Mr. Laverty, that given the record of pre-1976 buildings--in fact, that is the only record we have with applications made to the Residential Tenancy Commission--

Mr. Laverty: That is the only experience we have.

Mr. Cordiano: Exactly. Given that set of records and bringing that forward into this system, is it safe to assume we may have fewer applications made from that segment of the buildings we are talking about, the pre-1976 buildings?

Mr. Laverty: In all honesty, the projections on pre-1976 buildings are not greatly different under the two systems. A major change in work load relates to our bringing into rent review almost 1,000 private buildings which have come on stream since 1976. Those buildings probably would come to rent review for matters unrelated to capital expenditures. Their primary purpose in coming would be the elimination either of financial or of economic loss.

Mr. Cordiano: In regard to the pre-1976 buildings and those which have gone to rent review, is there not an incentive not to go to rent review, given the new guideline provision?

Mr. Laverty: The new guideline for 1987 at least is expected to be somewhat higher than the 1976 guideline. I suppose that in and of itself will mean fewer landlords will be expected to come, other things being equal.

Mr. Cordiano: Given the administrative review process as an initial step, I assume fewer applications might be made in the long term, once the system is in effect and has been running for some time and there is a track record, an experience or a history, if you will, that this system will be workable.

Mr. Laverty: The intent of the administrative review is to make the applications we get proceed more expeditiously. The argument for doing so is quite separate from the question of the absolute volume of buildings that will

take advantage of the system. Regardless of which set of rules you are dealing with, it is desirable that the procedures set up to process applications deal with the process faster than the existing system has done.

Mr. Cordiano: So what you are saying, in effect--I have just one final thing here, Mr. Reville.

Mr. Reville: Sure. You will have to work hard to get the answer you want, Mr. Cordiano.

Mr. Cordiano: You are saying that the system will meet its desired goal of being streamlined and more effective. Is that what you are saying, Mr. Laverty?

Mr. Laverty: I am saying we will bend every effort to that objective, and the legislation has been structured to be administratively easier on the parties.

Mr. Cordiano: Thank you. The floor is all yours, Mr. Reville.

Mr. Reville: I would not say Mr. Cordiano is being mischievous, Mr. Chairman.

Mr. Chairman: Neither would I.

Mr. Cordiano: I certainly was not. I was just trying to arrive at an answer.

Mr. Reville: Is it not the case, Mr. Laverty, that there will be more applications for rent review in the early years than in the past?

Ms. E. J. Smith: On a point of order, Mr. Chairman: Is this really a clarification of the amendment?

Mr. Reville: Yes, absolutely.

Mr. Chairman: I think it is an attempt at one.

Mr. Reville: I will get off that line. Mrs. Smith, I asked that question because Mr. Cordiano was trying to get across a point that cannot be made. I was inflamed by that, but I will calm down now and go back to my questioning. Mr. Elms, with respect, a brick in the wall is not a capital expenditure, would you say?

Mr. Elms: I would say it is not a capital expenditure.

Mr. Reville: If I understand what you have said, when the bill was first presented--and it reflected the report you had made up to that time--the tenant members of the RRAC were still unsure about whether to add economic and financial loss to the original list in section 73. As your discussions about maintenance progressed, did you decide it was okay to add them?

Mr. Elms: No. This was one of those times when we had split into groups or task teams, as they have been called. Those of us who had been on the RRAC subcommittee and had discussed this issue had some understanding of what we meant. In its attempt to be relatively concise and easily understood, the agreement was not terribly explicit. We did not need to be overly explicit at that time. Some members of that subcommittee did not know the degree to which we had been explicit in our discussions.

By the same token, we did not have further discussions about the concrete steps to be taken to the maintenance process, so we were not prepared to be more explicit in that document, which the original bill reflected. It was not a matter of people having decided after we had some discussions about maintenance to allow the landlords to add these extra portions to that section. It was just a matter of our not having been explicit about that portion of the bill earlier because we had not been more explicit about the maintenance sections of the bill or in our discussions about maintenance areas.

17:20

Mr. Reville: You have caused me two problems now, Mr. Elms. First, the original section 73 is absolutely explicit. It says financing costs only. The amendment suggests adding two other kinds of losses to that list, which I do not think you can allege is more explicit; it is just a longer list.

Mr. Elms: As I said, the original Bill 51 was drafted by the legal minds to reflect what they thought our agreement was trying to express. They were not there through all our discussions, so they did not know--

Mr. Reville: I understand that.

Mr. Elms: In reality, we had discussed it in more detail. That is why we are prepared to allow it to be reflected in this amendment to the bill. We had also had further discussions about the maintenance provisions and we saw more explicit protection forthcoming for us.

Mr. Reville: You are using the word "explicit" again, but now you are talking about maintenance.

Mr. Elms: Yes.

Mr. Reville: That is my second problem. You have the advantage of us in respect to maintenance. The government has not taken the committee into its confidence on the matter of maintenance yet, beyond telling us we are going to be told in the fullness of time. In fact, Mr. Laverty said it had something to do with a harvest; he said it would bear fruit in the near future. The concern I have is that most of the harvesting has been done, the Agriculture and Food critic tells me.

Ms. E. J. Smith: There is a little left to be done.

Mr. Reville: There are a couple of apples still hanging from the taller boughs.

Ms. E. J. Smith: That is right. Go and look; you will see.

Mr. Reville: I am not that tall, Mrs. Smith, although the minister thinks I am quite tall.

Mr. Chairman: Mr. Reville, if you do not want those apples, do not shake that tree.

Mr. Reville: I have heard, though, the higher the fruit, the sweeter the juice. I do not know whether that applies here.

Ms. E. J. Smith: The best is yet to come.

Mr. Reville: Somebody told me that. I think it was a farmer.

On the matter of this small capital, I reckon the value of the one per cent in the formula that is ostensibly for small capital amounts to about \$60 million a year. That is the number Mr. Gordon has been waiting for, so I will say it again, \$60 million a year for the one per cent related to small capital in the formula. If you had a building of 500 units and the average rent was \$500, that one per cent would generate you a fund of small capital of about \$30,000 a year.

Mr. Elms, what do you think of a request or maybe a requirement in the bill that each year the landlord should do an accounting of what was spent on small capital, and if it did not amount to the one per cent, there would be a refund in the following year?

Mr. Elms: Are you asking me for my response to that suggestion?

Mr. Reville: Yes. I thought that up this minute, and it seems such a good idea, I thought you would probably like it.

Mr. Elms: I do not believe that is the route to go to ensure that tenants receive value for their dollar. I say that honestly, as a tenant who has been paying the bills for his own place for the past 17 years and probably will for the rest of his life. However, I genuinely hope you will bear that in mind when you are looking at the maintenance board.

Mr. Reville: The concern I have is that, the way I understand the maintenance board to work--I have a very imperfect understanding of it, because the information I have been given is quite scant--if maintenance is not done to the minimum provincial standards, then a rigmarole ensues that relates to the Residential Rental Standards Board, the minister, the city hall inspector, time limits, stays, forfeitures and all sorts of stuff--appeals even. If there were a failure to comply with the provincial minimum standards, it might be a very long time before that failure was penalized or the deficiency was corrected, and all the time you would be paying out your one per cent or something you did not get yet. That causes me a grievous problem. I just wonder whether it causes you a problem too.

Mr. Elms: If the provisions of the maintenance board were such that it could happen, then yes, combined with the other features that are in this act, we, as tenants, would have some real concerns. I hope that the amendments might say this because we are not the ones specifically drafting the amendments as they are going to be written into this act with regard to the maintenance board.

In regard to that board, we have made our recommendations to the ministry on this, and there are lawyers on it. Because of the time factor of the committee, this is one of those cases where we are not going to get much of a chance to see the amendments that are likely drafted so we can make subsequent changes that we think should be made and then give them back to you.

Realizing the other pressing issues that this bill deals with, including that, I sincerely hope that is not the way it is handled. This open forum we are participating in now can, with the co-operation of all of us and the good intent of all of us, achieve the same result. I hope that you will be bearing in mind your concerns when we look at the maintenance board provisions that are brought forth.

Mr. Reville: I guess that is enough. It just occurred to me that in any enforcement inspection process, time elapses from the time you pick up the phone and call city hall and say, "The ceiling fell in my bathroom," to the time the inspector comes, a notice goes out and the landlord has an opportunity to comply, to the time that either the chief building official or the council committee decides that there has not been compliance and to the time the landlord appeals.

Having some experience in these inspection enforcement procedures in the past, I can see that time tends to elapse. You may be without a ceiling for a long time, although you are paying for an apartment that has a ceiling in the bathroom. That is all I was suggesting.

Mr. Elms: We made a joint recommendation of landlords and tenants and within that joint recommendation made suggestions to address that concern and to try to ensure that it does not take place. It is up to the ministry to decide what to do with our suggestions and how it interprets them into the amendments. Those suggestions were made, and we certainly have the same concerns you have.

Mr. Reville: I am glad to have them.

Mr. Chairman: Are there any other comments or questions on section 73? If not, subsection 74(1).

Mr. Laverty: I will outline the purpose of section 74 as originally drafted. Subsection 74(1) indicates a number of circumstances in which the landlord will have to submit proof of his actual operating costs instead of simply taking a formula operating allowance. These are cases in which, in order to perform a calculation to see whether a problem exists, you have to document all your revenues and all your costs.

In the initial draft, there was a reference, for example, to a case where a financial loss was being earned. The only way one can establish whether a financial loss is being earned is to actually document what all the revenues are and what all the costs are, subtracting the cost from the revenues to see whether the costs are larger than the revenues.

We have added an additional category to subsection 74(1), that is, the category of chronically depressed rents. As members are probably aware, in section 88, one of the conditions of qualification of the chronically depressed rent is that the landlord be earning a rate of return on equity that is less than 10 per cent. To calculate the return on equity, you have to know how much money the landlord is currently making. To know how much the landlord is making, you have to document all your revenues and costs. This was a technical oversight in the initial drafting and it has been corrected by inserting a reference to chronically depressed rents in subsection 74(1).

17:30

Mr. Pierce: I will withdraw my question. I had my old bill on top of the new bill. Now I see where the reference has been added.

Mr. Gordon: I see that what we are talking about in the amendment is providing this allowance for chronically depressed rents.

Ms. E. J. Smith: No.

Mr. Laverty: This adds to the list of cases for which you would have to document your revenues and costs. The chronically depressed rent would be a circumstance in which you would have to do that.

Mr. Gordon: That is what I said, an allowance with respect to chronically depressed rents. Is that not what I said?

Ms. E. J. Smith: It is really an additional protection for tenants because this group also will have to prove its case.

Mr. Gordon: You mean the chronically depressed people will have to declare--

Ms. E. J. Smith: Yes.

Mr. Gordon: That will be an additional two per cent.

Mr. Laverty: Yes. Under subsection 88(2), they will qualify for an allowance of two per cent per year. Where there is a new tenant or the consent of an existing tenant, you could have a full adjustment or any part thereof to the threshold for the definition of a chronically depressed rent.

Mr. Gordon: While we are at it, I wonder whether you would mind explaining subsection 74(2) in layman's terms.

Mr. Laverty: As printed in the initial act, subsection 74(2) says that if you have been to rent review recently and you have already documented your revenues and costs within the past three years, you can use those as a starting point for your calculation instead of resubmitting detailed, updated information. The purpose of that is to try to simplify the process as much as possible for all concerned.

Mr. Chairman: On to clause 75(1)(b), Mr. Laverty.

Mr. Laverty: Clause 75(1)(b) is an addition to the act, a change from the previous draft of the legislation. It adds something the Rent Review Advisory Committee requested in its April 18 report. The request is found on page 15, paragraph 9, "That the interest allowed on capital items be the actual interest rate charged plus the value of guarantees, and/or an imputed rate on landlord equity at an appropriate borrowing rate."

Clause 75(1)(b) adds a reference to the value of guarantees. Where a landlord has got a lower interest rate by reason of pledging extra collateral, for example, perhaps he is putting up security related not only to his building but also to his own home, whereby he has obtained a lower interest rate and the value of that guarantee would be added to the amount subject to the award.

Ms. E. J. Smith: Translated, does that mean he will be allowed to use the going rate of interest rather than the reduced rate is a result of the collateral?

Mr. Laverty: Essentially, he would wind up paying the rate of interest he would have paid if such collateral were not available; that is if such additional collateral were not at risk.

Mr. Reville: Can we make that real?

Mr. Chairman: We are not talking about real interest.

Mr. Reville: We are not talking about real interest. We are talking about imaginary interest. Let us suppose I am a customer who gets prime plus one, but somehow I get a loan for prime plus one half. Do I charge the tenants prime plus one?

Mr. Chairman: If it is because of the guarantee.

Mr. Laverty: If we take the case of a landlord who obtains a 12 per cent interest rate instead of 13 per cent by using additional collateral, the one per cent difference is allowable. If you calculate the impact of that on a second mortgage of \$1,000 per unit amortized over 20 years, it works out to 67 cents a month in the example I have given you.

Mr. Pierce: That is pretty heavy.

Mr. Gordon: In other words, you are saying a landlord should not be penalized?

Mr. Laverty: Yes. If as part of his security, he has put his home or whatever other assets at risk, he should be compensated. That is essentially the principle involved.

Mr. Gordon: That is fair.

Mr. Reville: Is that not always the case when you go to the bank? You put your whole soul at risk and whatever you may have is at risk.

Mr. Bernier: You are an expert at that.

Mr. Reville: I will tell you. Ask me how much I owe the bank these days.

Mr. Bernier: Did they give you a loan?

Mr. Reville: You would be surprised.

Mr. Chairman: Anything else, Mr. Reville?

Mr. Bernier: Good thing I was not the bank manager.

Mr. Reville: Have you got to the next amendment yet?

Mr. Chairman: We are still on clause 75(1)(b).

Mr. Reville: I still do not understand it very well.

Mr. Chairman: Do you want a further explanation of clause 75(1)(b)?

Mr. Reville: Yes. You said 67 cents, which would not matter much if it were only 67 cents, but it is 67 cents that is added to a lot of other dollars and cents allowed for in this bill. I am concerned about every penny. I am wondering whether there is a way to fiddle this that you have not thought of.

When you go to a bank and say you want a million dollars to do something, they ask themselves what the likelihood is of your paying it back.

Your interest rate is going to relate to how they assess you as a risk. If you can put up your chalet in Florida as part of the collateral--

Mr. Pierce: Or your cabin in northern Ontario.

Mr. Chairman: Or your condominium in northern Ontario.

Mr. Reville: Whatever you might have; your shack in Riverdale.

Mr. Pierce: That is the one.

Mr. Gordon: Or your farm in the valley.

Mr. Reville: How can you put a value on this? How does this get proved?

Mr. Pierce: It is the interest rate, the value that you get for your collateral.

Mr. Reville: Absolutely, Mr. Pierce, but this allows for a number different from the one the bank put on it. The bank says, "This is 11.8 per cent," and I can somehow go there and allege it should be 13 per cent because there is value in my guarantees. Is that not the case?

Mr. Laverty: The question about the value of the guarantee has to be a matter that the landlord establishes on the basis of evidence sufficient to document that there is a value and that the value is worth a certain sum of money. Obviously, the lender involved would be a primary provider of such information, any documents the lender had put forward in the matter. It is a matter the landlord has to establish. The onus of proof that there is a value and that he can document the value is on him.

17:40

Mr. Chairman: Mr. Reville, will you allow the chair a question?

Mr. Reville: Of course.

Mr. Chairman: Does the guarantee cost the landlord anything?

Mr. Laverty: The value costs him something only if he happens to default on it, in which case it costs him whatever he put up as additional security. It is a matter of whether the landlord makes good on his payments. The guarantee is of that nature.

Mr. Chairman: Is that why you have allowed the landlord to pretend the interest rate was higher? Is this the thinking behind it?

Mr. Laverty: The potential additional risk to the landlord's total financial position is the reason for the value of the guarantee being allowed.

Mr. Chairman: The answer is yes?

Mr. Laverty: The answer is as I gave it.

Mr. Chairman: I refuse to accept that.

Mr. Reville: Rule the answer out of order.

Mr. Gordon: They just gave a political answer.

Mr. Chairman: Mr. Reville, was there another question before Ms. Smith begins?

Mr. Reville: I want to ask Ms. Laird a question.

Ms. E. J. Smith: This is relative to that on a supplementary.

Mr. Reville: This is on the same matter. Why did the tenant representatives on the Rent Review Advisory Committee agree to this pretend interest being charged to tenants? I hope I do not wake the baby up.

Ms. Laird: Your voice may; I do not know. I was not party to those discussions.

Mr. Reville: You did not agree. Mr. Elms?

Ms. Laird: I did not say I did not agree. However, I was not at those discussions.

Mr. Reville: Ms. Laird is a lawyer and can take care of me.

Ms. E. J. Smith: Saying she was not in a discussion is not the same as saying she does not agree. I am not a lawyer but I can figure that one out.

Mr. Reville: She is and she can take care of me. You would not believe it.

Mr. Elms: Aside from trying to provide the landlord with very real compensation for the risk factor, which is part of it--it is not simply a matter of whether he decides he will meet his payments or decides not to meet his payments. There is some risk in that he cannot always determine what is going to happen in the marketplace generally. That has to be covered.

In addition, if the landlord puts up his home as a means of obtaining a lower interest rate or getting a loan in the first place, obviously that also precludes him from using his home to borrow money for something else, so there is a real financial cost to him in that sense as well. What is used once cannot be used two times at the same time, if I can put it that way.

We also have to bear in mind the number of small landlords out there in the market. I am speaking as a tenant, obviously. We want to make sure the system is fair to the vast majority of landlords, small landlords, who do use things that, to them, are very real possessions. They are very limited in their resources. As Mr. Laverty pointed out, the burden of proof of the real cost of the guarantees is on the landlord. We want to make sure the legislation allows the system to afford the people who are in the situation I am describing their fair due, because we, as tenants, want to ensure they are going to borrow the money they have to borrow to make the capital expenditure they have to make to keep the property up. The only way we can ensure that will happen is if the system is fair, so we try to build fairness into the system.

Mr. Reville: I suggest that if the landlord defaults on the loan, the tenants are going to be in trouble anyway.

Mr. Chairman: I caution the members of the committee that at this

point we are here to get clarification of these amendments, not to debate the pros and cons of them. That comes in clause-by-clause consideration.

Mr. Reville: It comes and goes too.

Mr. Chairman: This is just so you know there is something to look forward to.

Mr. Reville: I do not have any further questions.

Mr. Gordon: Do you mean we should leave a bit for later?

Mr. Chairman: Yes. Leave a bit of the fun for later.

Mr. Bernier: Are we on clause 75(1)(c) yet?

Mr. Chairman: We are on clause 75(1)(b). I think we are about to move to clause (c). Is there anything else on clause 75(1)(b)?

Mr. Gordon: Would the representative of the landlords on RRAC like to comment on this issue? I think it is important to put their view on the record.

Mr. Andrade: From my perspective, this section puts into being a system that has worked in rent review, which is that each building stands on its own. If you go to rent review and try to claim a cost you have spent somewhere else, it is not allowable; it is of no benefit to the tenants in this building. Here, if a landlord is able to raise a loan based on the security of the building in which the tenants live, he gets no allowance for any guarantee, because there is no guarantee beyond that which is given in respect of the building. However, if he employs other assets which are outside of the building, that is where he gets some consideration.

In effect, I think it is an equalizing factor because each building is then treated on its own and there is no consideration given to the fact that he may have received a better rate because he has gone outside the building. He gets the rate he would attract in respect of that asset and not some other assets that may have other rent review implications at other times.

Mr. Chairman: Clause 75(1)(c) deals with the landlord's own labour.

Mr. Laverty: This is an amendment that has been brought in to make the legislation more accurately represent the intent of a RRAC agreement, in this case number 5 on page 15. The initial draft of the legislation said that among the issues on which the minister would make a finding would be to "consider the landlord's own labour, if any, in carrying out the work involved in the capital expenditure." This has been amended to "allow the value of the landlord's own labour, if any, in carrying out the work involved in the capital expenditure."

"Consider" seemed to imply a great deal of discretion on whether the landlord's own labour would be recognized. The redraft to say it is to be allowed makes it very clear that the minister is to allow the value of the landlord's labour in all cases where that occurs.

Mr. Chairman: Are there any questions on clause 75(1)(c)?

Mr. Bernier: There is a very obvious question. "Allow the value of the landlord's own labour." How do you measure that? How do you measure sweat?

Mr. Reville: I think you measure it in decilitres.

Mr. Laverty: It is essentially a matter of appraising the value of the labour in the capital improvement. In terms of evaluation, if you have a job for which the labour would have cost \$100 if you had hired an outside labourer, then the value of the completed work is \$100. That is the value that is put in place by means of the capital expenditure.

Mr. Bernier: A landlord can charge carpenters' wages and plumbers' wages.

Mr. Laverty: No, because in all likelihood--

Mr. Bernier: He will.

Mr. Laverty: You are looking at two aspects of it. First, the landlord is probably not going to be working as efficiently as a professional carpenter and therefore he may put in a lot more hours. That is disregarded. What you would look at is how much time would have to be spent to do a professional job so that you would not pay the landlord for his inefficiency in performing the job. Second, in some cases the quality of the job done might be markedly different if the landlord performed it than if it were performed professionally and that might be taken into account as well.

17:50

Mr. Bernier: Who makes that assessment? Another board? I can see that as a real problem.

Mr. Laverty: Essentially the assessment is done by the administrative review system or by the hearings board, depending on whether it is an initial level or an appeal.

Mr. Pierce: Carpenters' rate varies throughout the province.

Mr. Laverty: One has to go to first principles here. First, if the landlord has performed labour, he should be compensated. Any compensation under the system has to be made by the minister and the board, and if the board member or the minister wishes to have a professional inspection done for the purposes of evaluation, that can be done.

Mr. Bernier: If the minister is involved in every section of this bill, you will be awful bloody busy.

Mr. Laverty: You will be glad to know the minister can delegate most of these responsibilities.

Mr. Bernier: He would have to have a staff of 2,000-3,000.

Mr. Laverty: It states in section 12, "The minister may in writing delegate any power or duty granted to or vested in the minister under this Act to any officer or employee of the ministry, subject to such limitations, restrictions, conditions and requirements as the minister may set out in the delegation."

Mr. Pierce: I understand they are converting my apartment and will call the apartment office buildings.

Ms. E. J. Smith: Then you can rent it to yourselves?

Mr. Bernier: I see this as one of the many weaknesses in the bill. It will be misconstrued and twisted and there will be distorted arguments and disagreements on this.

Mr. Laverty: There will undoubtedly be disagreements, but a solution to that problem is not to disregard altogether the landlord's own efforts.

Mr. Bernier: I think that should be recognized. There is no question about that. I think there should be a clearer understanding of how you measure true worth or whatever you call it.

Mr. Chairman: Mr. Elms, you are going to put Mr. Bernier's mind at ease?

Mr. Elms: Ha, ha.

Mr. Gordon: Do you put that on the record?

Mr. Elms: I think the concern is not so much whether we will allow a real true value here. I am assuming we wish to allow a true value and I think there is no question about that, as we just said. The concern is not whether to allow the value but rather what the value is, and that is something on which we, landlord and tenant together, agree.

Mr. Bernier: How about we put it in regulation?

Mr. Elms: In reality, that is exactly as is reasonably understood from a situation like this; there is no way this act could possibly lay out all the measurements and means of measuring the value of a landlord's own labour. That has to be dealt with in regulation and it is definitely again a reason the Rent Review Advisory Committee must continue, for the purpose of further evaluation of the whole process.

Mr. Gordon: For a millenium.

Mr. Elms: I told Mr. Church I would get that on the record and I did.

Mr. Reville: It seems to me there are two issues here and we are dealing with only one. One issue is whether to allow, and the other issue is what to allow.

Is it contemplated that there will be quantity surveyors who will inspect the work done by the landlord and make some determination of the value thereof? That would be the professional appraisal you are talking about, I guess.

Mr. Laverty: If the circumstances warrant, the minister does have the power to cause an inspection to be made and, where that is required, the minister can do that.

Mr. Reville: Let us suppose, in the modest case to which this would apply most often, the landlord says, "I have replaced all the plumbing in my sixplex and I value that at \$60,000." How will your rent review administrator know whether that is the right number? Is there going to be a manual?

Mr. Laverty: For practical purposes, through the current Residential Tenancy Commission, the ministry is going to have a fair body of evidence on what the replacement of the plumbing, in this case, would cost in a building of that nature. It could make a reasonable estimation on it. In addition, there are manuals available in the industry which give indications about cost and would also serve as guidance.

From both the direct experience of the ministry and the standard manuals available to the industry, in a large number of cases, sufficient guidance of that sort would be given without the need for detailed inspections. However, detailed inspections will be required in some cases, and they will be performed when it is necessary to arrive at a correct evaluation.

Mr. Reville: Who carries the freight for the cost of such inspections?

Mr. Laverty: Those would be absorbed by the ministry. They would not be absorbed by either the landlord or the tenants. It would not flow into the rents.

Mr. Reville: How much have you allowed for that sort of expenditure?

Mr. Laverty: I do not think there has been a specific costing of that.

Mr. Reville: Aha! That is a-h-a.

Mr. Laverty: However, there is a certain overall allowance that has been made for various administrative costs under the bill.

Mr. Reville: Thank you.

There is an interesting book about quantity surveying that I commend to you. It is a classic in the field of quantity surveying and it relates a lot to the drains in an English estate. It is an absolutely charming book and everybody would do well to read it. As soon as I remember the title of it, I will tell you.

Mr. Chairman: Thank you, Mr. Reville. That is something else to look forward to.

Is there anything else under clause 75(1)(c)?

Mr. Gordon: I still want to understand this section a little more clearly. You are saying here you are going to allow the value of the landlord's own labour, but you cannot put your finger on what "value" really means. Is that correct?

Mr. Laverty: It depends on what you mean by putting one's finger on it. I have indicated to the committee that there are several things the minister would look at in terms of the evaluation. One would be the experience with regard to those repairs and improvements that were done by outside labour, to which, therefore, a market value had been attached. Second, there are the cost manuals that are available in the industry. Third, there is the possibility of inspections of various levels of complexity. Personally, I do not think I can go beyond that in terms of indicating to you what the approaches would be in determining those costs.

Mr. Gordon: When we talk about the value of the landlord's labour, you are saying to this committee that if he does carpentry or plumbing or maybe some brickwork in the building, he is not going to be able to charge the same rates as a carpenter, plumber or bricklayer. Is that correct?

Mr. Laverty: In many cases, he would not.

Mr. Gordon: Can he or can he not?

Mr. Laverty: If he is a carpenter, he can.

Mr. Gordon: Are your administrators going to force landlords to come in with trade papers? Is that what you are saying to us?

Mr. Laverty: One of the problems in this whole area is that the major alternative to doing an evaluation of the finished product is to impute an hourly rate to the landlord and then have him give you evidence as to how long he spent on the project. The problem with that alternative is that it is extremely difficult to document the number of hours a landlord has spent. Indeed, there is probably no useful way of questioning the landlord on the total number of hours he has spent. Because of that, there would be a substantial lack of control over an approach to the evaluation that simply asked him, "How many hours did you spend?" and then multiplied it by some magic figure.

The value approach was chosen instead because there are several different avenues, as I have explained, whereby one can try to come to grips with that.

18:00

Mr. Gordon: You are saying you set aside the whole question of assessing what the landlord does on the total number of hours spent. You said we could not do it that way?

Mr. Laverty: That is correct. You are doing it according to the value of what is done, not by the amount of time a given landlord claims to have spent and not by some imputed number as to how much an hour of that landlord's labour is worth.

Mr. Gordon: How can you separate what is done from the amount of time that would have to be spent to do it? We are sitting around this table. How can you separate the time from what is done? You cannot.

Mr. Bernier: We will try.

Mr. Gordon: You cannot. I think you have got yourself into a real nightmare. Who is responsible: the Rent Review Advisory Committee or the ministry?

Mr. Laverty: The implementation would be the responsibility of the ministry.

Mr. Gordon: Let us take this a little further then, because you said it. Are you going to compare what the landlord does to outside labour? Is that one of the criteria?

Mr. Laverty: One of the criteria is to look at what is done and to

do an evaluation of that product in terms of its value had it been contracted externally rather than done by the landlord.

Mr. Gordon: Okay, that is the first. What is the second?

Mr. Laverty: The second criteria would stem from the experience the minister had in evaluating similar projects done externally.

Mr. Gordon: What is the third? The inspection system?

Mr. Laverty: We have the industry manuals. Fourth, we have the possibility of varying levels of professional inspection.

Mr. Gordon: Tell me a little more about these industry manuals. I am interested in these manuals. Who wrote them, which one are you referring to, and can I get a copy at the next meeting of this committee?

Mr. Laverty: Whether you can get a copy at the next meeting, I am not sure.

Mr. Gordon: Is this a copy of the carpenters' manual of Ontario?

Mr. Laverty: No.

Mr. Andrade: There are manuals used by quantity surveyors and building cost consultants in industry. I am told they are used principally in public sector buildings where they have to make a budget up front for a project. I cannot name any offhand, but there are several manuals in the industry as guides for different kinds of work.

Two things should be borne in mind here. First, this problem exists in the current program. It is not something new. We are simply trying to codify what has been a practice under the Residential Tenancy Commission to some extent. Also, we are really talking about valuing only a portion of the cost, because a landlord who does his own work has had to buy various supplies and component parts. We have the actual cost there, so we are really talking about the labour portion only.

Quite apart from the experience the ministry will develop in a procedure, the Residential Tenancy Commission has had a large case load in this area in the past. The difference is that in the Residential Tenancy Commission we have people taking both approaches: first, trying to value the work, and second, picking an hourly rate out of the air and allowing for the hours actually spent. That is far more distorted than the approach we are trying to take here.

I do not think it is a new problem. You are quite right, Mr. Gordon; it is a problem, but we know there are small landlords in the industry who will do a fair bit of small-scale work. We have to grapple with this problem, and there are various guides that can assist us.

Mr. Gordon: I do not think you realize what I am trying to say. Obviously, you are trying to build into this act a way in which landlords can get recognition for the work they do in their buildings. That is understandable and necessary. However, what I am getting at is how you will possibly arrive at a fair determination for those people. When we start hearing things such as, "We are going to look at what is done and evaluate the product," I have to put on my other hat as a responsible legislator and ask how much this is going to cost.

I have to look at the second point, which says it is up to the experience of the administrator. That means if you are lucky, you have a rent review administrator who is really good at what he does, understands all the books Dr. Laverty was talking about and probably has a master of arts in quantity surveying. Then you might get a square deal, a break, but what about the other administrators?

Then you say if that does not work, you will send out inspectors. What are we creating? This is a monster. How much is it going to cost the people of Ontario?

Ms. E. J. Smith: It is already there. It exists.

Mr. Gordon: It will cost much more than what exists today. You are getting into a real swamp.

Mr. Epp: Not necessarily.

Mr. Pierce: Not another swamp.

Mr. Gordon: I do not want to draw this out, and I want to hear what you have to say in reply, but when all these things come to the committee clause by clause, I want you to know that I will be asking how much it costs. I want an analysis done, because this is really a lot of money. Not only that; it is creating an unfair and unjust situation for landlords.

Mr. Chairman: We will get into that in more detail in clause-by-clause discussion.

Mr. Gordon: I know we will, but I think we have to understand this clause, "allow the value of the landlord's own labour." This is going to be law, and we really cannot explain it.

Mr. Epp: Surely you are not opposed to this.

Mr. Gordon: I want an explanation of it.

Ms. E. J. Smith: Regulations are what you want.

Mr. Reville: When are we getting regulations, Mr. Chairman?

Mr. Elms: If a global explanation would solve the concern--and certainly not having the ability to produce regulations that are not drafted--

Mr. Chairman: Are you going to explain to us the rationale or how to compute the landlord's labour costs?

Mr. Elms: The rationale for putting this into the bill, which I think is basically what Mr. Gordon is addressing, is that as tenants, we want to make sure the work is done. Having a law, a maintenance board, that puts standards in place that say all properties must be kept up to certain levels is not enough by itself, as we have all seen in the past. If the law is not aided by rent review legislation that assures the small landlord that, reasonably speaking, he can get his costs back, then he is not going to do the work.

In this clause we are not suggesting an expansion on what is allowed now. Rather, it is a much clearer delineation of what is already being done right now, as John has pointed out so well. Frankly, the commissioner at this time can use incredible discretion in deciding how much to allow a landlord. As a tenant, I find that abhorrent because the landlord could get far too much, which is a real possibility, as some of you have indicated. As a landlord representative, John finds it abhorrent because some of his clients find that they darn well do not get enough.

We are suggesting that this is the right direction to take to ensure fairness. As Mr. Laverty pointed out, to calculate the value strictly on the number of hours and to multiply that by some wage you are going to give to those hours is, in itself, an unfair method; it does not work. The comparisons are there. It is possible. We would simply like to use the method we have suggested rather than leave it wide open.

Mr. Gordon: I can easily see why the Rent Review Advisory Committee was going to go on until the millennium comes, and its members were not even elected.

Ms. E. J. Smith: When they are elected, they are going to go on to the second millennium.

Mr. Reville: They do not have a structure to get their per diems reviewed, either. They should get that right away.

Mr. Chairman: Mr. Gordon, have you finished? Mr. Pierce has a question.

Mr. Pierce: I will withdraw.

Ms. E. J. Smith: Very briefly, it would seem to me that the smaller the landlord, the more likely this clause is to come into play. Would that be correct? The large landlords are not likely to be doing their own work.

Mr. Laverty: Large landlords would not. Small-sized and medium-sized landlords would be more likely to be--

Ms. E. J. Smith: Doing their own work and charging for it.

The principle you are anticipating is based on work accomplished rather than on hours spent, which, having sons who do over their own houses, I can well understand. I think they spend a lot more hours than a professional would.

Mr. Laverty: Yes. Essentially, that is the approach we are adopting here.

Ms. E. J. Smith: I agree with Mr. Bernier's point that we have to watch and set some sort of regulations so that this is not abused. It might be a thought to look at this at least. The one thing that would have to be done would be for the landlord to submit his own tender on what he is going to do in advance so that if he says, "I am going to do my own painting and I am going to charge this much money," then everybody can see that rather than have it be guesswork after the fact.

Mr. Laverty: Under section 86 of the act, the landlord has the right to go to rent review and to get a predetermination or, as it is referred to there, a conditional order.

Ms. E. J. Smith: Yes, but that is a choice.

Mr. Laverty: Yes.

Ms. E. J. Smith: You might consider regulations making it obligatory that if they are going to charge for their own labour, they have to estimate it in advance. It is a check that is there, rather than have them say any number of hours they want after the work is all done and being unsure of what they did.

Mr. Laverty: They can put in any number of hours they want, but the decision is made on the value of the work done rather than on the number of hours spent.

Ms. E. J. Smith: It is harder to determine after a job is done. It is just a thought in passing. I see this as something that is in place for the small landlord rather than for the big landlord, and therefore I do not anticipate the abuse that we might look for if it were something that could be abused in huge ways. The small landlords have appeared in front of us, and the small landlords whom I know in my own riding are often people who have renovated bigger places into smaller apartments and done a lot of the work themselves.

Mr. Elms: If it is some comfort to the committee, the very fact that that provision exists is, to a large extent, the reason tenants on this committee can feel a little more comfortable about going along with this; that is, we know that, under the particular section Mr. Laverty referred to, landlords who are concerned that they will not get sufficient value have the option of applying in advance, detailing the work they are going to do and knowing what they will reasonably get for that when the work is done.

If a landlord does not choose to do that, then he or she or they may have to suffer the penalty of getting to rent review having already done the work and hoping they get fair value for their money. Judging by the amount of concern that is being shown by members of all three parties here, it leads me to believe that this Legislature, and any future Legislature with you members involved, will watch very closely to ensure that the regulations are tough enough so that landlords will not be walking away with big bags of money in their pockets.

We hope you will maintain that attitude. It is fairness there for both.

Mr. Gordon: Obviously, there is a political message going back and forth here between--well, I am hearing it from the landlords. But you just made a political statement.

Mr. Reville: How would you know?

Mr. Gordon: I am going to choose to ignore it.

Mr. Elms: I hope you will.

Mr. Gordon: The questions I have been asking have been: What kind of system are we setting up in this province? How is the landlord ever possibly going to get a fair return when it comes to his work? Mind you, you would view that as politics, but I view it as important that there be a system here that makes sense and not a system that is going to be absolutely haywire.

Mr. Andrade: In my experience, Mr. Gordon, where commissioners have employed this criterion, the results have been not completely unsatisfactory to the landlords who do this type of work.

I think both sides want to have this codified in the law. Right now there is a great discretion that, on the one hand, leaves the landlord, who in effect does expect equity, with virtually nothing. On the other hand, there is a reasonable tenant complaint that, somewhere in the past, some landlords who have done their work have obtained an allowance far beyond what may be called pure market value.

I agree with you that there are problems in coming to the nuts and bolts of each specific case, but we are looking at this section to see whether, as a matter of principle, (a) we ought to allow it, and (b) it is the correct approach. I think this has to be the first approach.

I am sure you are correct that in some cases it will work less than perfectly. I do not see the alternative. We do live in a second-best world, and I really do not see any reasonable alternative to this approach.

Mr. Chairman: Just before we move on, Mr. Elms, you looked a little agitated a few minutes ago. I wanted to assure you that when a politician accuses you of making a political statement he is paying you a compliment.

Mr. Pierce: In respect to a fair return for the labour that is put in by a landlord, you say that in many cases it has been shown that the landlord has not received a fair return for the amount of labour he puts back into his own units.

From my experience, the profit the landlord makes is a return on his labour that he puts into his building. If there is no profit, then it does not matter how much he charges for his labour. He is not going to make any money.

Mr. Andrade: That is why it is important to go to a value system.

Mr. Pierce: But if his apartment building is not showing a profit, then a value system will not do him any good, either. There is no money there to draw from.

Mr. Andrade: That is correct, but other sections of the act will alleviate his concerns in that respect. This section of the act will not do anything for the landlord in breaking even. This will simply take care of the passing-through of his capital costs. Other sections will alleviate your concerns.

Mr. Pierce: All right. If in a 12-plex charging an average of \$600 a month per unit there is a landlord who normally expects to draw a salary of about \$30,000 a year as a full-time manager, then under this clause, he can draw off whatever other profits there are on that building by doing additional work on the apartment building.

18:20

Mr. Andrade: Not necessarily.

Mr. Pierce: Why not?

Mr. Andrade: Because we do not know how efficient he may be in doing

the work himself. As Dr. Laverty said earlier, some landlords may take a great deal longer than an outside professional.

Mr. Pierce: However, given the time the landlord has--and in this case he has 365 days a year and 24 hours a day--his labour has to be worth something, even if you value his labour at \$5 an hour. If he is doing something a little out of the ordinary around his apartment building, fixing the odd doorknob or checking the washers in the faucets to make sure they are still in good shape before they start to leak, he is entitled to some return for his labour.

Mr. Andrade: Those things are general maintenance. The administrator would look at what sort of cost is claimed in respect of superintendent's wages. In most small buildings a superintendent would do a minimal amount of maintenance, but the administrator would not be giving this landlord \$30,000 per year plus the cost of doing all these other items. Certainly in a 12-plex he would look to what the marketplace would allow for normal janitorial work. That problem also exists there.

Mr. Pierce: However, if that same landlord were not a full-time landlord and hired out all that work, he would still qualify for the return on his investment section of it.

Mr. Andrade: That is quite different. If he is not a full-time landlord and employs people for various functions, he can claim those costs, but he cannot claim his \$30,000 a year as well. That is not allowed under the scheme.

Mr. Pierce: No, but he can claim his return on investment.

Mr. Andrade: It depends on how old the building is.

Mr. Chairman: Do you have anything else, Mr. Pierce?

Mr. Pierce: I see that there are going to be all kinds of administrative problems, and I really wonder at the ability of anybody to classify the value of an individual's labour in performing work in his own apartment building.

By admission, there are a number of landlords we have heard from in the more than 130 submissions to this group who are carpenters, plumbers and electricians who have in some way built up their own apartment buildings as a hedge against retirement. They are now living off them and providing all their own labour to keep the buildings in good condition. Those individuals are entitled to the full rate of tradespeople. I could very easily see a landlord saying, "Listen, I got called on Sunday at 10 o'clock in the morning to unplug a sewer, and that is good for \$50 an hour."

Mr. Andrade: That is not capital, sir. That is normal maintenance, which in most cases would not come into the equation, because there is an operating cost allowance. In most cases that is taken care of by the operating cost allowance.

Mr. Pierce: How does he charge back his labour?

Mr. Andrade: He gets a portion of his rent increase from the operating cost allowance.

Mr. Pierce: Is it recognized under the existing bill that his labour is part of the maintenance cost?

Mr. Andrade: Normal maintenance is part of the building operating cost index.

Mr. Pierce: But his labour?

Mr. Andrade: Including his labour.

Mr. Reville: Finally on this matter, and I throw this out for the thought processes of the committee, Ms. Smith's suggestion that there should be a requirement to get a predetermination in these cases strikes me as not particularly realistic.

My sense of how this happens is that the landlord calls up his brother-in-law, Jimmy the plumber, and says, "This weekend let us go and do the bathroom in unit 3." I cannot imagine Jimmy, his brother-in-law, saying, "Prior to making capital expenditures in respect of a residential complex or any rental unit therein, why do you not apply in the prescribed form to the minister for a conditional order under subsection (2)?" He will probably say: "Okay, let us do it. Make sure you have got a case of beer."

I do not think that is what you had in mind, because you do not want to deter the landlord from making a lot of these improvements. You want to get them done and you want to make sure the landlord gets the value of the job.

It seems to me the problem is not just in the quantity of the work; it is in the quality of the work. If you get rough carpentry, you should pay for rough carpentry, not finished carpentry.

Mr. Andrade: That is where inspections are going to be important. We are not quite taking into account the fact that the tenants are going to be involved in this process. If they say to the administrator that the landlord did the work but it is of really shoddy quality, they can have somebody inspect the work. He will say that the landlord did the work, but it is not worth a professional value; it is worth something far less.

Mr. Chairman: We can return to subsection 75(1). Before we adjourn, I would like to thank Ms. Laird and Kumi. It is not every day that someone who cannot yet walk gets standing before a committee. I hope you will express our appreciation to her.

Thank you, Mr. Elms and Mr. Andrade, for your assistance this afternoon.

We are adjourned until tomorrow afternoon at 4 p.m.

The committee adjourned at 6:26 p.m.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
THURSDAY, OCTOBER 23, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)

VICE-CHAIRMAN: Reville, D. (Riverdale NDP)

Bernier, L. (Kenora PC)

Caplan, E. (Oriole L)

Cordiano, J. (Downsview L)

Epp, H. A. (Waterloo North L)

Gordon, J. K. (Sudbury PC)

Morin-Strom, K. (Sault Ste. Marie NDP)

Pierce, F. J. (Rainy River PC)

Smith, E. J. (London South L)

Stevenson, K. R. (Durham-York PC)

Substitution:

Knight, D. S. (Halton-Burlington L) for Ms. Caplan

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Rent Review Advisory Committee:

Grenier, W., Co-Chairperson

Bever, F.

From the Ministry of Housing:

Laverty, P., Director, Rent Review Policy Branch, Rent Review Division

Stratford, L. A., Senior Solicitor, Rent Review Division

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, October 23, 1986

The committee met at 4:14 p.m. in room 151.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The standing committee on resources development will come to order. We are wending our way through the proposed amendments by the ministry. We have with us today Mr. Grenier and Mr. Bever from the Rent Review Advisory Committee. We appreciate your presence.

When we adjourned yesterday we were on clause 75(1)(c). There was still a question or two remaining on that proposed amendment.

Mr. Gordon: As Mr. Grenier is here today, I would like to address a comment to him. Perhaps he can give us his version of what it means to "allow the value of the landlord's own labour." My concern yesterday was two-fold. On the one hand, I understand full well, as do we all, that there is a need to get a handle on how to go about assessing the labour a landlord puts into his building. We cannot have it adding up to astronomical sums. At the same time, I was concerned that the landlord would not be given recompense for his labours, unless there was some kind of framework within which the landlord could claim this.

There was discussion yesterday about there being a manual that the rent review administrator could use. My concern was that you could have one rent review administrator who was quite good at analysis, assessment and so forth, and you could have another who was not good at all. You do not have the same in any profession. Some business people are really good at what they do, some are mediocre and some are awful. It is the same in the professions as in the work place.

How do we assess the value of a landlord's labour? How did you get where you are today?

Mr. Grenier: Based on reasonableness, I think, Mr. Gordon. Your concerns are well-founded because it is an area where abuse could creep in quite easily. If I may take the order in slight reverse to what you pose, the fact that we might have one rent review officer, if I may use that term, assessing differently from another one, is with us now. That probably will not change a great deal. Personal prejudices will always creep into the assessment and you will always have thoughts of what is too much and what is too little, based on an individual's own experience.

From the point of view of the definition of sweat equity, you probably have been over that--shovelling walks, fixing eavestroughs, changing windows, this sort of thing. Has that been brought up?

Mr. Gordon: We did not get into it in any great detail at all.

Mr. Grenier: That is the idea. Let me put it in a different context. In one of our buildings, when it comes time to change the filters, we call in our maintenance people who clock in at nine in the morning and go through a whole building of 250 units, finishing by five o'clock the following afternoon. We have a time sheet for those people and we know roughly how many filters they can change in any given day. When we are allocating time and budgeting, we budget for those people at \$16 an hour and we know approximately what it will cost us.

If I, as the owner of the building, were to do that myself, it would cost more; one, I am inexperienced and two, I would probably take some time to get schooled up as to how to do it, etc., but I would have to clock those same time events in the same kind of bookkeeping, if you will. In my instance, that would be sweat equity. As the owner of the building I would be providing a service to the building that I would normally provide by a third party and would have a charge for.

This normally occurs in the case of very small buildings, in fourplexes, sixplexes, maybe 10 or 12, but generally speaking, not much beyond that. It includes things like that, not highly technical things, but things in which there is labour involved. It includes sweeping the garages, cleaning the halls, fixing--

Mr. Gordon: Is that not maintenance?

Mr. Grenier: It depends what area it falls under. In some instances it is ordinary maintenance, in others it is extraordinary maintenance and in some areas it is not maintenance at all, it is an area of capital expenditure.

The definition is something that obviously has to be tracked, but the individual landlord who is making the charge would have to have some sort of record-keeping for those charges, something he could submit.

Mr. Gordon: I do not wish to interrupt you, but I do not want you to get down a track inadvertently. We have 22 items that the Building Operating Cost Index formula is based upon. A lot of those are maintenance-type items, such as sweeping the floor, shovelling the walks of snow and so forth. I am not really zeroing in on those aspects. Already you are taken care of in the two thirds.

16:20

What I am interested in determining is this. You say you are allowed the value of the landlord's own labour, if any, in carrying out the work involved in the capital expenditure, so--

Mr. Grenier: Fred has some additional comments.

Mr. Bever: To a large degree, all this is doing is putting into legislation what has been the practice before the Residential Tenancy Commission. It is not that difficult with the capital expenditure.

The administrator will have access to contractors. For example, if a landlord comes forward and makes a claim for installing new windows, but indicates that he has done the installation himself instead of having the contractor do it, it is not difficult for the administrator to phone three different contractors, get a quote on the window installation, and simply subtract from the labour the material costs which will have been claimed.

What is important is the way it is envisioned. It is not that the landlord will necessarily get a per-hourly payment if it takes him longer than it would take a skilled contractor. He would get the money he has saved by doing the work himself instead of contracting it out. If it takes him 20 hours to do a job that would have taken a skilled contractor 10 hours, the equity that would be counted into the capital expenditure would be 10 hours' worth of labour.

Mr. Gordon: That brings up another question which really comes from our previous meeting. The idea was brought forward that there would be inspectors who would go out to assess the landlord's work. You could have one landlord put those windows in and spend that many hours on it, and the windows would all be draughty and there would be all types of problems. Then you would have another landlord who would go out and put in windows that would fit the way they should and were draught-free, and so forth.

I had the feeling at our last committee meeting that the allusion was being made that if the workmanship was not up to scratch or if it was pretty poor, then how could you really give that landlord the same kind of pay or equity? Now if I am off base on this, I would like to be corrected. I certainly do not want to go on to clause by clause not understanding this.

Mr. Grenier: I would like to correct it. The latitude that you have allowed there may be a little too wide. Granted, some landlords may not be as skilled as others--to use your window example, which is a good one--but remember the chances are that the landlord has been doing this for the past 10 years or whatever, in any event. We are talking about his own building. This is not something that is going to start happening suddenly because of this bill. This is something the landlord has been doing.

All we are doing is recognizing that fact and allowing him to be paid as he would pay outsiders. Chances are that he will do it better than an outside contractor, unless it is something that requires great skill. In most cases, however, it is something that will not require a great deal of skill.

The landlord can save the money by doing it himself, and thereby increase his potential revenue. That was the objective, and most of the landlords who would be doing it are doing it now. We are just recognizing it now, that is all.

Mr. Gordon: That raises more questions in my mind, but I think that maybe I could discuss this more fully with the committee when we come to clause by clause.

Mr. Chairman: I do not know whether anyone else wants to talk about this now. Is there anything else on clause 75(1)(c)? If not, can we move on? Subsection 76(2), relief of hardship, Mr. Laverty.

Mr. Laverty: In section 131 of the 1979 legislation, a new concept was introduced that was not in the original act on rent review. The original act allowed for the elimination of financial losses, which meant bringing the costs up to the level of revenues. In 1979, an additional consideration was inserted whereby, if the landlord was, say, in a break-even position, the Residential Tenancy Commission could award the landlord an additional amount to raise the gross revenue to not more than two per cent above the costs in the building. It would be the total of costs plus a two per cent figure.

In the initial drafting of Bill 51, the concept of hardship was stated

somewhat differently. It simply limited the amount of the hardship award to not more than two per cent of gross potential rent, but it did not say two per cent over costs. So that it would be left open for a landlord to argue that he was in hardship because of personal circumstance, despite the fact he was earning, say, 10 per cent more than his costs. That is, he would be trying to interpret hardship in such a way that it departed from the definition of hardship that originally was in the 1979 act.

The purpose of the amendment the government is putting forward is to clarify the situation and return it to the kind of wording we had in 1979, so that hardship can be awarded to the point where the landlord is earning revenues that are two per cent above total costs.

Mr. Gordon: Is that the end?

Mr. Chairman: That may be the end of Mr. Laverty's explanations, but need not necessarily be the end of the discussion.

Mr. Gordon: All right. We are talking about relief of hardship. In your original clause, did you not refer to section 72?

Mr. Pierce: Yes.

Mr. Gordon: And now you are referring to section 71.

Mr. Laverty: In the original it is determined under section 72, and in the re-draft it is an application made under section 71. The scheme of the act is such that the application is made under section 71, and determined according to the considerations listed in section 72.

For all intents and purposes there is no substantial change in what we are referring to. In both cases, we are talking about a whole-building review application, as it is termed.

Mr. Gordon: Could you give us a concrete example of how this would work? Take a hypothetical example.

Mr. Laverty: If the landlord's total revenues are \$100,000 and his total costs are \$100,000, an additional \$2,000 could be awarded to him, which is two per cent over costs.

Mr. Gordon: Where is the rationale?

Mr. Laverty: The initial rationale, back in 1979 when the legislation was brought forward, was that, in addition to bringing a landlord to a point of breaking even, there should be an additional award because it was considered that if a landlord were merely breaking even in the operation of the building, that was in a sense a hardship.

Mr. Gordon: Why would it be considered a hardship?

Mr. Laverty: I take it that with a landlord who had invested in the building and was operating the building, the feeling was that some additional revenue should be generated from it.

Mr. Gordon: What happens when it is a tax benefit to run a building this way?

Mr. Laverty: It depends on the building.

Mr. Gordon: There are all kinds of things done with buildings in today's market, are there not? Or am I all wet on this? Mr. Cordiano scoffed when I brought up this issue--

Mr. Cordiano: Perhaps you (inaudible), Mr. Gordon.

Mr. Gordon: Perhaps we should ask the business people who are sitting here to explain how buildings sometimes are used in ways other than just as apartment buildings, strictly speaking. For the information of the committee.

Mr. Laverty: Certainly. Before you call on Mr. Grenier, it might be germane to point out that, under the rent review legislation, the system of accounting is done on a cash flow basis. That means we are allowing financing in terms of the blended interest and principal and that we do not allow interest plus depreciation. The system of accounting is fundamentally different. If we were using interest and depreciation, that would be closer to the Revenue Canada taxation approach, which is the major advantage to which you refer in terms of the tax advantages. Within the overall scheme of rent review, the objective is not to allow the rents charged the tenants to fluctuate according to the personal taxation situation of the landlord. That is the basic principle that is being carried through.

16:30

Mr. Gordon: You must have had quite a discussion about this at the Rent Review Advisory Committee. I think we should be given the benefit of some of that discussion.

Mr. Grenier: Sure. I think you should too.

Mr. Gordon: It does not have to be long.

Mr. Grenier: Put very simply, the tax benefits that accrue from a building accrue on exactly that, on an accrual basis; the cash losses are exactly that, cash losses. They are made up by the taxpayer who subsidizes the building during a period of time, during which he is assured that the building, although it is losing money today, when the rents are escalated year by year, will eventually catch up and will pay him back.

In the meantime, he is using tax dollars that he would normally send to Ottawa. He gets to keep that money to subsidize the building. It is a timing difference and, in effect, a loan from Ottawa to the individual. The idea behind that was that it would encourage people to build buildings, and it did. However, it does not put more money in the landlord's pocket. It merely changes the timing of when he is going to have actual, as opposed to tax, losses.

Mr. Bever: I cannot claim to know what was in the Conservative government's mind when it introduced this legislation in 1979. As I understand it, and certainly the way it was explained to me at rent review hearings, was that the two per cent relief of hardship was seen as something that was largely targeted towards noncorporate landlords. What was intended was that, by allowing a return on invested equity, it would discourage, or at least make it somewhat more attractive for, that owner to hold on to his property. They did not want to see people selling properties.

In the alternative, if someone was just brought to a break-even point, assuming he had 15 per cent equity wrapped up in the building, he was not getting any return on that equity. The two per cent would allow him a return of some sort on his investment, thereby discouraging him from selling the property--or encouraging him to hold on to it is a better way to look at it.

Mr. Pierce: Mr. Laverty, in the new amendment in subsection 76(2), as it relates to subsection 76(2) in the first draft, the change from section 71 in reference to section 71, as opposed to the reference under section 72, the only change is adding the part of where an application is made by a landlord. Yet in the proposed first draft of legislation, if you refer to section 72, that covers where an application is being made. What is the difference? What are we doing that is different?

Mr. Laverty: My understanding is, and legal counsel will correct me if I am wrong, that section 71 in the act governs the manner in which applications are made to rent review by a landlord seeking a rent increase of greater than the guideline, greater than the maximum rent.

In section 72, what happens is that it lists all of the considerations that the minister will take into account in considering an application under section 71, so that, for all intents and purposes, if you are talking about an application under section 71 or a rent determination under section 72, you are really talking about a whole building review in both circumstances. There is no substantive change in the impact of that on the award of hardship. In both cases, you are dealing with a whole building review process.

Mr. Pierce: May I ask legal counsel, if you do not accept the proposed new amendment in subsection 71(5), what does that do to the amendment in subsection 76(2)? It seems to me that throughout the document we want to keep making references to other clauses. I know you have to do that to provide a legal document, but if you propose an amendment change in one clause and then you propose a further amendment change in another clause to reflect the amendment change in the first clause you changed, there has to be a reason for it.

That is all I am asking. Is the proposed amendment change in subsection 71(5) reflective of the proposed amendment change in subsection 76(2), as opposed to using clause 71--where did I go now; this is like playing bingo--72(f)? We are now going from the alphabet to the numbers.

Mr. Laverty: Right. Subsection 76(5) is a separate kind of amendment, which we are going to reach in a minute. In both drafts, subsection 76(5) is referenced back to subsection 76(2); so in terms of the scheme of the act, in terms of its relevancy in the section--

Mr. Pierce: Dr. Laverty, we are talking about subsection 76(2). I have not got to subsection 76(5) yet.

Mr. Laverty: I thought that you had.

Mr. Pierce: No. I am talking about the changed amendment in subsection 71(5)--what used to be subsection 71(5)--and the reference in subsection 76(2), as amended, to section 71 as opposed to the first proposed bill, which was in reference to section 72 in total.

Mr. Gordon: Mr. Chairman, I think the staff is beginning to feel a little bit like the legislators when they are explaining the bill to us and start rattling off all the numbers going backwards and forwards. Is this what you call turning the tables? Anyway, I know you are going to come up with an answer in a few minutes, so we will not rush you.

Mr. Pierce: Oh, good.

Mr. Gordon: Do you want to put your heads together for a few minutes?

Ms. Stratford: I do not think subsection 71(5) is of particular concern--

Mr. Gordon: Dr. Pierce can wait.

Ms. Stratford: --indicating when submission of material is to take place. Section 71 as a whole deals with applications by landlords for whole building review.

Mr. Pierce: Yes.

Ms. Stratford: Section 72 says that when an application is made under section 71, the minister is to make findings on certain items. It relates back to section 71.

Mr. Pierce: You are talking about section 72?

Ms. Stratford: Yes, 72.

Mr. Pierce: Not amended?

Ms. Stratford: In both cases, you have not changed section 72.

Mr. Pierce: Right.

Ms. Stratford: In the original bill and in--

Mr. Pierce: You have amended section 71 and you are now taking away the reference to section 72 and making reference to sections 71 and 76.

Ms. Stratford: Yes. What I am suggesting is that we build on section 71, which is the section that gives the power to the minister to make these considerations on a landlord's whole building review. Section 72 says when you have the application under 71, you consider certain things. When we were amending subsection 76(2), we felt the original reference to section 72 was not really proper in a logical way of looking at it, because we are really referring back to the originating provision, the provision that creates the application, which is section 71.

When you are considering an application under that section, you consider other things and they are referenced back. It is just more usual to refer back to the section that creates the application. In practice, there is probably not a great deal of difference because section 72 tells you to make certain types of--

Mr. Pierce: That is my point. That is what I am concerned about, particularly when you amend a section, or a clause in a section, and then

further into the document you amend another section to correspond with a section but make no reference to the amendment in the previous section.

Ms. Stratford: I do not think I follow you at all.

Mr. Pierce:: You are confused? I am having a hard time following it too.

Mr. Cordiano: I think that is--

Mr. Pierce:: Do you understand it?

Mr. Cordiano: I did not follow what you were saying.

Mr. Pierce:: Thank you. We have gone through it about four times since you left and came back.

Mr. Cordiano: Go through it again.

Mr. Pierce: If it is your desire, we can certainly go through it again.

Mr. Cordiano: No. What you just said.

16:40

Mr. Pierce: I will say it again if you want me to say it again.

You are amending an earlier clause in the document by amending subsection 71(5). Then you carry through the document to a later clause, subsection 76(2), and change the reference to the clause from section 72 to the now-amended section 71. The question I am asking is how does it relate to the change in the amendment to section 71(5) and why did we take the reference out of section 72?

That is the question I asked.

Mr. Grenier: I can try that one. In both cases we are referring to an experience of hardship which is proved at a whole building review. In the amended Bill 51, the whole building review process itself is slightly different because subsection 71(5) has been amended; but in both cases we are referring to hardship established at a whole building review.

Mr. Pierce: I guess I go back to the first question. What is different in subsection 76(2) from the original proposed to subsection 76(2) in the amendment? What makes it different now?

Mr. Laverty: I take it that it is more usual in terms of legal practice, when one is referring to something like a whole building review, to be referring back to that section that governs the initiation and process rather than to the section that deals with the considerations the minister takes into account during the process. It is a matter of convention in terms of legal drafting. I assure you there was no intent to change in the amendment the fact that we are talking about hardship in whole building reviews in both circumstances. It is a matter of legal convention. I take it that is what Louise has indicated.

Mr. Pierce: The whole intent, Dr. Laverty, with respect to legal counsel, of subsection 76(2) as amended is changed from what was proposed in 76(2) of the original draft. Is not that right? You have changed the intent of 76(2) as opposed to the original proposal of subsection 76(2), where it said quite simply:

"(2) When the total rent increase for the residential complex has been determined under section 72, the minister shall, where he or she considers it necessary to relieve the landlord from hardship, allow the landlord additional revenue of not more than two per cent of the gross potential rent."

You have now amended that by saying:

"(2) Where an application is made by a landlord under section 71"--which changed the whole intent of the clause or the subamendment--"if the revenue found in respect to the residential complex does not exceed the actual operating and financial costs by at least two per cent, the minister may, where he or she considers it necessary to relieve the landlord from hardship, allow the landlord additional revenue required to raise the revenue not more than two per cent above the cost."

Is not the intent changed?

Mr. Laverty: One has to keep in mind that there are two changes in subsection 76(2).

The cross-reference to section 71 as opposed to section 72 has no substantial difference. The change in 72, which I explained originally, is that in the initial drafting, an allowance is made of not more than two per cent of gross potential rent without adding the restriction in the 1979 act that it is not more than two per cent above costs.

In that respect, there is a difference between the first draft of Bill 71 and the draft as amended. There is a change between the two of them, but it is not the change that principally concerns you, the cross-referencing between section 71 and section 72.

Mr. Cordiano: Is this part of the reference to 72? What difference does it make?

Mr. Pierce: That is the question I asked. The original draft made reference to section 72.

Mr. Cordiano: Why would they bother?

Mr. Pierce: The amended draft refers to section 71 and the only question I ask is why it was changed in the sections. Why are we changing the reference to the direction of the sections? That is my question. Now you try it and get an answer.

Mr. Cordiano: An answer was given.

Mr. Laverty: It is a matter of legal convention.

Mr. Gordon: You are dodging the question. Come on, Joe.

Mr. Cordiano: I am not answering the question. I am simply trying to help Mr. Pierce come to a satisfactory answer.

Mr. Pierce: I appreciate the assistance, but I mean--

Mr. Epp: Maybe we should call on the chair.

Mr. Chairman: Mr. Pierce, do you have any further questions?

Mr. Pierce: No, we will go on with subsection 71(5).

Mr. Chairman: Are there any further questions?

Mr. Gordon: I would like to ask Dr. Laverty, is the provision in subsection 76(2) not the predecessor of the new rate-of-return provisions?

Mr. Laverty: Subsection 76(2) applies to all buildings. The rate-of-return provisions in section 77 only apply to a subset of those buildings, i.e., those buildings first rented after January 1, 1976.

As a matter of practice, any post-1975 building would qualify for a rate of return, which over time would exceed the amounts awarded under subsection 76(2) and that, therefore, would govern the award. In subsection 76(2), we are really talking about a provision which applies to all buildings, and in section 77 to a procedure which applies only to certain buildings.

Mr. Chairman: Thank you, Mr. Laverty. Anything else on subsection 76(2)? If not, subsection 76(5).

Mr. Laverty: The problem with subsection 76(5) is that in the initial draft of the legislation we were dealing with a process in which the financial loss was being phased out. The maximum allowed in such a circumstance where the financial losses occurred from the purchase of a building is five per cent in any given year.

This is the result of the legislation passed in late 1982. When a building is purchased and there is a financial loss, not more than five per cent a year can be passed through towards the elimination of the loss.

In the last year of the phase-out, if there was, for example, an additional three per cent of loss to be phased out, could the additional two per cent hardship be awarded? Section 76 as initially drafted said yes, indeed it could. There would be the three per cent of the elimination of the residual loss plus the two per cent hardship award. As long as it stayed within a five per cent total, it could be done.

The problem with the initial draft is that it did not give an indication of how the five per cent should be calculated, that is, five per cent above what? The amendment tells us what it is five per cent above. It says "does not exceed five per cent of the last lawful rents that were charged for the residential complex," which is the same wording that was used in subsection 76(3), which governs the elimination of the financial loss. We are using the same rule for the computation of the five per cent in the case of hardship that we are using for the financial loss itself. Therefore, the two sections are made consistent. It is a clarification of the computational procedures.

16:50

Mr. Gordon: As I recall, because we were talking a lot about this, we were going to have a full-blown explanation of some of these terms.

Mr. Chairman: I recall I made a couple of notes. There would be examples, with numbers, for a couple of the sections, namely, subsection 60(3) and subsections 60(1) and 60(2).

Mr. Gordon: I was just curious. It is something that Dr. Laverty had said.

Mr. Chairman: Is that your understanding?

Mr. Laverty: It is my understanding that we were to get back to you on computations from section 60 and that in the initial discussion of our presentation we were requested to come back with some material on section 77, which is the elimination of economic loss. Those, in my understanding, are the two sections for which we have explicit requests from the committee for an exposition of the numbers.

Mr. Gordon: We have also been talking about regulations.

Mr. Chairman: We have indeed.

Mr. Gordon: We raise it again just to let you know that we are expecting them. That is understood. When might we receive this added information that is being spoken about?

Mr. Chairman: Let us deal with one at a time. What about the regulations, Mr. Laverty?

Mr. Laverty: I do not think I have any direction from the minister with regard to the regulations to impart to the committee today.

Mr. Chairman: Perhaps you could take back from the committee the message that the committee is concerned about the lack of availability of the regulations.

Mr. Laverty: I will do so.

Mr. Gordon: When do we get to the points that you raised, Mr. Chairman?

Mr. Chairman: The specific examples.

Mr. Laverty: On section 60, as I indicated when we came to that, we were engaging in additional discussions with the Rent Review Advisory Committee governing those calculations and, therefore, we do not have those available at this time. We will bring them to you when we have completed those discussions. With regard to section 77, we do have material and would be willing to table it and bring the committee through it, when we get to section 77.

Mr. Gordon: That should be momentarily.

Mr. Chairman: That depends on whether or not you are satisfied with the explanations of subsection 76(5) yet. Is there anything on subsection 76(5)?

Mr. Pierce: The explanation of subsections 76(2) and 76(5), just to clear the muddy water.

Mr. Gordon: No, I do not have any further questions on subsection 76(5).

Mr. Chairman: Subsection 76(7), Mr. Laverty.

Mr. Laverty: The change that is contemplated to subsection 76(7) arises from a confusion in our mind as to what the Rent Review Advisory Committee intended, which has subsequently been clarified.

As you may know, under rent review, there has been for a number of years a limitation on the amount of debt that would be allowed on the purchase of a building. That limitation has been 85 per cent of the acquisition value. If the building costs the landlord \$1 million, the maximum debt that would be allowed for the purposes of computing a financial loss occurring after sale would be \$850,000.

The purpose of the amendment is to reflect the intent of RRAC that the 85 per cent rule apply in terms of the computation of the financial loss that would be eligible for the payment of interest on the carrying of that loss. If the landlord was losing \$50,000 and his initial loan was not more than 85 per cent of value, then the interest on the \$50,000 that he had to put into the building to keep it going, in order to pay off the costs that he was experiencing, would be allowed as a legitimate expense.

The section clarifies that the loan referred to was the original \$850,000 loan, not the \$850,000 plus the subsequent \$50,000 loan. We are talking about the loan to cover the financial loss when the financial loss is calculated, using the 85 per cent rule that has existed in rent review since the beginning, as far as I can recollect.

Mr. Gordon: Is that a major amendment?

Mr. Laverty: It does have some consequences. It is one of those amendments which reflects the advice we have from the advisory committee. Using the example I have just given you, the initial drafting would have disregarded altogether the additional \$50,000 financing and would not have allowed any interest at all. The landlord would not have been able to claim the cost of carrying his additional loss, notwithstanding the fact that he had complied with the 85 per cent rule on purchase. It is of substantial importance to such landlords and, presumably, tenants in most buildings to correct an error in our understanding of the advisory committee's intent on that.

Mr. Gordon: Speaking for RRAC, what is the rationale for the amendment on the \$50,000?

Mr. Laverty: The rationale for the amendment is to bring it into conformity with the intent of RRAC.

Mr. Pierce: Who is the major beneficiary in the change? Will both benefit from the change?

Mr. Laverty: I think in the first instance the individual who would benefit from the amendment would be the landlord, who would be able to claim the interest on the loans he had been forced to make in order to cover his financial losses. Second, the financial institution might be a beneficiary in that the landlord would less likely to default on such loans. Those would be the principal financial consequences.

17:00

Mr. Gordon: What was the rationale for it among the Rent Review Advisory Committee members?

Mr. Laverty: I am not sure whether you are asking what the rationale was for the amendment or what the rationale was behind the initial RRAC proposal.

Mr. Gordon: Usually when I ask a question like that I want the fullest possible answer. I know your job is to answer it very finely and narrowly and as specifically as possible. If I fail to follow up on the other side of the rationale, that is my problem. I want to know the full rationale for this. That is what I am asking. When I ask a question, I want a full answer.

Mr. Laverty: Okay.

Mr. Gordon: Maybe the RRAC people here would like to answer that and it would leave you out of that kind of debate, unless you were at the meeting where this took place.

Mr. Laverty: Yes, I think I was.

Let me answer it in two steps. The rationale for the amendment is to restore it to the intent of RRAC, which I have already indicated. The subsequent question, I take it, is why the people on RRAC think the landlord should be able to claim the interest on these financial losses as a legitimate expense.

Mr. Gordon: And is it a tradeoff?

Mr. Laverty: Everything involves the full considerations before RRAC, but whether one uses the word "tradeoff" or whether one--

Mr. Chairman: Delicate balance might be another term.

Mr. Laverty: Delicate balance might be another term. However, my understanding is the tenants on RRAC were willing to acknowledge that the landlord, to keep the business going in a case where he was experiencing these financial losses after purchase, could regard the losses, in essence, as an expense of being in business. They recognized he is required by the legislation to lose money, because there is a phase-in on the elimination of the economic loss, and they were willing to acknowledge it as a necessary expense of doing business and they agreed with the landlords to allow that amount.

Mr. Bever: To a large degree, this is reflective of a situation where the practice normally was--although it was not formalized in previous legislation; it varied from commissioner to commissioner--to allow a landlord to claim interest payments on loans required to cover the cash shortfall.

Although it was not applied consistently--as I said, one commissioner might and another might not--it would be fair to say that, particularly in the latter years of the commission, it became more and more the norm to recognize this as a legitimate cost to be passed through.

The fact that the landlord was carrying the loss was a direct result of the rent review legislation, which staged his recovery rather than permitting him to bring the rents up in one step.

The tenants recognized it as a provision in the existing legislation they are prepared to see continue. I do not think this was ever identified as a tradeoff.

Mr. Pierce: For my own clarification, what is meant by the words, "at the prescribed rates"?

Mr. Laverty: It means the rates established by regulation. It is a matter that would go before a regulations committee of cabinet for approval.

Mr. Chairman: Before we leave subsection 76(2), Mr. Laverty, am I right that you said that subsection 76(2) applied to all buildings rather than just pre-1976?

Mr. Laverty: Yes. It would apply to all buildings. Is not that correct? Obviously, it applies only to those that are experiencing a hardship situation, but the test would be applicable in all cases.

Mr. Chairman: Is there anything else on subsection 76(7)? If not, subsection 77(1), rate of return.

Mr. Gordon: Pardon me. No, I am sorry; subsection 76(7) is clear.

Mr. Laverty: At this point, there is a question whether the committee wishes to proceed with the overall exposition of section 77 and subsequently go through the particular amendments. How does the committee wish to proceed?

Mr. Gordon: Do you not think that if we had the overall exposition of section 77--an overview--it might help us to clarify and help us to move through it?

Mr. Laverty: I think that would be a reasonable way to proceed. I am simply leaving it to the committee to state its preferences.

Mr. Chairman: There seems to be a general agreement on that.

Mr. Gordon: This is one of those little quirks we get, is it, related to the delicate balance?

I think it is a wonderful idea. Are we going to do it with overheads or slides?

Mr. Laverty: We will do it with underheads.

Mr. Gordon: What do we do? Put our heads underneath these tables and look at the material?

Mr. Laverty: I think we will table it for your benefit. We will first deal with--

Mr. Gordon: May I make the suggestion that--I am sure the devices are available--the television cameras could pick up the page so the public

would have the opportunity of perusing some of the material at the same time it is being explained to them.

Mr. Chairman: Is there no limit to the degree to which you wish to abuse the public?

Mr. Gordon: That is true. With this bill it could be viewed as abusing the public.

Mr. Chairman: We will be moving out of this room on Monday to room 228 where there are no cameras located. That will resolve that problem.

Mr. Gordon: That is a shame because we wanted a hit show. Does that mean that the ratings--

Mr. Chairman: The ratings are very low despite the Canadian content.

Mr. Laverty: We will take subsection 77(1) first and then we will table the document to bring this through subsection 77(2).

As the members are aware, in subsection 77(1) there is a reference that the rate of return is to be calculated on the landlords' initial invested equity including the principal portion of any debt not otherwise allowed up to the amount of the acquisition costs of the residential complex and capitalized financial losses.

Mr. Gordon: Are we talking about subsection 77(1)?

Mr. Laverty: This is a preamble.

Mr. Gordon: Do you want to run that by me again because I am trying to figure out how this fits in.

Mr. Laverty: In subsection 77(1), as printed in the amended version, there is a reference to the rate of return, which is calculated on the landlords' initial invested equity, including the principal portion of any debt not otherwise allowed, up to the amount of the acquisition cost of a residential complex and capitalized financial losses.

Mr. Pierce: That is straightforward, is it not?

Mr. Laverty: The purpose of the mathematics I handed out--

Mr. Gordon: May we interrupt as we go along? When we are talking about "including the principal portion of any debt not otherwise allowed," I wonder if you might tell us what you mean.

17:10

Mr. Laverty: Yes. That is one of the two points on which further advice will be forthcoming from the advisory committee as we go through this presentation. I should say that up front.

According to one of the parties in the Rent Review Advisory Committee, the debt not otherwise allowed would mean any debt that is more than 85 per cent of the acquisition cost. It would be similar to the 85 per cent rule on purchase. The rules on new buildings and on purchase would be that an 85 per

cent limit on debt would be allowed for the purposes of calculating the debt portion of the rent review award.

The other side of RRAC does not agree with that and, in the case of new buildings, would wish to disregard the 85 per cent rule. The purpose of disregarding the rule would be that in order to get the maximum production of rental units, there was a desire not to restrict the amount of debt to any given percentage. That matter is currently under active discussion.

Mr. Gordon: That would be the developers--or the ministry.

Mr. Laverty: We are there too, of course, but the latter version relates to the landlords' position, whereas the former is the current position of the tenants' half. That matter is still under discussion as to which way it will go.

Mr. Gordon: Where would that come in? How would it work?

Mr. Laverty: Going back to the initial example of a \$1-million building, if the landlord had a debt of \$900,000 on that building and you applied the 85 per cent rule, only \$850,000 would be an allowed debt; the other \$50,000 would be a debt not allowed.

Mr. Gordon: That is a good explanation. Where does the ministry fit in resolving this issue? Does it have any part to play in this?

Mr. Laverty: The ministry attempts to assist the parties in reaching a common understanding. We act as facilitators in that regard on an issue of this nature. There are certain other issues in which the ministry plays a more active role. Those are the ones that have substantial administrative consequences for the government in terms of the expense of operating the system. It varies from issue to issue how much of a direct interest we have in the solution, as opposed to solutions with which both of the parties can live.

Mr. Gordon: After the tenants and the landlords come to some kind of understanding on this point, you people go away and write it up. Then you give it to your legal people, and they put it in legalese for the clause that goes into the bill. Then it goes to legislative counsel, and they check it to see whether it is okay. Is that the idea?

Mr. Laverty: It depends on the magnitude of the problem involved. Of course, there were certain decisions that came before government. The process I have described so far is the role the civil service has played with the advisory committee in helping it reach a conclusion.

Of course, there were also certain major issues of policy, which were brought before the minister and cabinet for approval. That, in a number of cases, would be a separate exercise. In some cases, most notably the matters we will be discussing under section 88 under chronically depressed rents, as you already know, the government made certain decisions that went beyond the decisions made by the landlords and tenants. My earlier remarks concerned how those of us in the civil service assisted the landlords and the tenants in the resolution of their differences.

Mr. Gordon: Dr. Laverty, you can be so lucid on certain occasions, and then on other occasions you lead us into a real labyrinth. I appreciate what you are saying.

Mr. Laverty: Some problems are a good deal more complex than others.

Mr. Gordon: Exactly. This is getting to be more like a tax bill every minute.

Mr. Chairman: Economics imposes a very tough discipline on its disciples.

Mr. Gordon: I see you have brought in some more help, Mr. Chairman.

Mr. Chairman: Yes. I brought in another doctor to cope with Dr. Laverty.

Mr. Gordon: In that case, go right on now that we understand this business of any debt not otherwise allowed.

Mr. Laverty: The purpose of the equations is to set out the relationships that exist between various things that were mentioned in subsection 77(1) so that we can understand what is meant by the landlord's initial invested equity and the capitalized financial losses and how they relate to the computation of the economic loss. I will simply go through all 10 equations and state them briefly. I presume that if any particular equation draws comment, you will not hesitate to raise questions.

The first one says that the value on the acquisition is equal to the initial debt plus the initial economic equity. The value is divided into two parts: debt, which is borrowed, and equity, which is put in by the landlord.

Initial debt, in turn, as we have just discussed--

Mr. Gordon: Excuse me, that is: $V = ID + IEE$?

Mr. Laverty: Symbolically, yes.

Mr. Gordon: Okay. We are getting into algebra now, right?

Mr. Pierce: You will memorize all of these for your constituents, I am sure.

Mr. Gordon: Do we get a test at the end of this?

Mr. Laverty: There are some people who prefer algebra to English.

Mr. Epp: It is just an equation.

Mr. Gordon: I appreciate that. This is good.

Mr. Laverty: The initial debt, as we previously discussed, is equal to the allowed debt plus the debt not allowed. We explained previously what debt not allowed was.

The initial economic equity is equal to a concept called the equity of redemption minus the excess debt. The equity of redemption in the case of a \$1-million building--

Mr. Gordon: It sounds as if we are getting into religious overtones in this committee.

Mr. Reville: There is a possibility of redemption.

Mr. Gordon: You might be saved yet, Mr. Reville.

Mr. Laverty: In the case of a \$1-million building, if the loan was for \$800,000, the equity of redemption would be \$200,000. It is the difference between the value of the building on purchase and the loan amount on purchase.

Mr. Gordon: Do you want to run that by me again, please?

Mr. Laverty: The landlord got the building for \$1 million, he has a debt of \$800,000 and the equity of redemption is \$200,000. The concept of excess debt refers to those strange and unusual circumstances where the landlord has managed to put more debt on the building than he paid in the purchase price for the building. This would be a case in which the building was bought for \$1 million but the landlord was able to convince financial institutions to advance him \$100,000 on the \$1 million. This might occur in a case where the landlord was able to convince the lender that this building was such a great deal that he got it well below its true value and that the building was worth a great deal more than \$1 million.

17:20

The value on acquisition is simply substituting equations 2 and 3 into equation 1 for those of you who are adept at algebra. Instead of initial debt, we substitute allowed debt plus debt not allowed and instead of initial economic equity, we substitute equity of redemption and excess debt. That is purely a mathematical exercise.

Of that amount, the initial invested equity is equal to the value of the building less the allowed debt or, as we have stated it here, is equal to the other three terms, that is, the debt not allowed plus the equity of redemption minus the excess debt.

Mr. Grenier: Everybody is still with us, right?

Mr. Gordon: We started to slip a little bit on that. Up to that point, I was feeling kind of proud of myself. You had to do this to me before the weekend?

Mr. Epp: You have noticed that they invoked religion by putting redemption and so forth and got high finance. They have every conceivable formula they could have cooked up included here. You must have stayed up until at least 12 o'clock some nights, Dr. Laverty.

Mr. Laverty: Not quite.

Mr. Pierce: The doctor has been known to go without lunch, though.

Mr. Laverty: He certainly has.

Mr. Pierce: It affects your digestion. We will not want to eat either.

Mr. Laverty: Essentially, the initial invested equity will work out to be the value of the building minus the allowed debt. Once again, if it is a \$1 million building and the debt is \$850,000, the initial invested equity will

be \$150,000. If the initial debt was \$900,000, then \$50,000 of that would not be allowed and the initial invested equity again works out to be \$850,000. If you had total debt of--

Mr. Gordon: You are now on the second page?

Mr. Laverty: I am giving you numerical examples as we go. If you happen to have an initial debt on \$1,150,000, then the allowed debt, again, is \$850,000 and the initial invested equity is \$150,000. That is the manner in which the initial invested equity is being computed in terms of the reference in the legislation.

Mr. Pierce: Are all these equations the results of the two parties, the landlords and the tenants, getting together one Saturday afternoon and coming up with the equations and giving them to the ministry staff to have interpreted into the document? The ministry equations were given to RRAC and they are as snowed under as the rest of us are.

Mr. Grenier: No, not at all. We gave them some examples of the buildings and they came up with the formulae. We showed them how it worked.

Mr. Laverty: The concepts involved are from the committee. The actual writing of these equations, I must admit, was done by the ministry but the concepts are the advisory committee's.

Mr. Pierce: So the exercise was put in front of the ministry and the ministry devised the equations.

Mr. Laverty: Yes.

Mr. Epp: The figures were devised by the ministry. The general principles and the equations were developed by the committee, not by the ministry.

Mr. Laverty: In doing so, there were references to actual buildings.

Mr. Pierce: No, I did not suggest they were; I suggested the equations were devised by the ministry.

Mr. Grenier: The equations are simply a way of condensing it, but the examples we gave were actual examples of buildings with debentures on them, for example. As the tenant said, "We are not going to allow the debenture." We agree; we are not going to allow the debenture. That is all it is. It just shows you a debenture.

Mr. Laverty: Equation 7 deals with capitalized financial losses, which is the other element in the equity base. That is simply equal to the sum of the annual financial losses experienced by the landlords, that is, the loss in year 1 plus the loss in year 2 and so on.

The equity base, the base on which a rate of return is calculated, is equal to the sum of the initial invested equity plus the capitalized financial losses. It would be equation 5 plus equation 7.

Equation 9 deals with the rate of return and reproduces the formulae found in clauses 77(1)(a) and (b). If we are talking about a post-1975 building for which the building permit was pre-1987, the rate of return is 10

per cent. If we are talking about a building that is post-1975 and the building permit is post-1986, we are talking about the 10-year government of Canada bond rate plus one percentage point. Economic loss is simply equal to the equity base multiplied by the rate of return.

In the subsequent two pages, we have provided a number of examples, the essence of which I provided to you as we went through these equations.

Mr. Gordon: Let us go through each one of these examples.

Mr. Laverty: Sure.

Mr. Gordon: Just so it will be fixed in our minds.

Mr. Epp: Mr. Chairman, I wonder whether Mr. Gordon might not want to take this home and sleep on it and take a look at it.

Mr. Gordon: I want to leave this behind when I leave today.

Mr. Epp: Then he could come back on Monday and ask some specific questions. To go through the whole thing again might be a waste of time, and I know he would be very cognizant of his time and ours. I wonder whether he would like to rethink that.

Mr. Gordon: This is very complex and I would not want to insult anybody on the committee today, but I think--

Mr. Epp: Do you mean you would like to do it another day?

Mr. Gordon: I could always go home and spend the weekend working up questions on these sections and we could spend the rest of the week on it, but I do not want to do that. I want to see this bill move along, so I want a clear explanation. I want Dr. Laverty to go through this more slowly, and then I think I will be satisfied that I understand it more clearly. Do not antagonize me.

The Acting Chairman (Mr. Morin-Strom): You would prefer to go through section 77 once and for all rather than come back to it.

Mr. Gordon: No, not once and for all. We are not there yet. This is just an overview.

The Acting Chairman: During this process.

Mr. Gordon: Perhaps we could go through the various buildings, take our time and understand it. Then we can put this aside. I hope that when we get into the various government amendments it will all become clear.

Mr. Epp: Do we have a recording of this so we can take it home with us?

Mr. Laverty: I understand we are making a recording of this. It will be available on cassettes.

Mr. Gordon: Let us go through the various buildings again, please. If we have any questions, we can ask them.

Mr. Laverty: My understanding is you wish me to walk you through the examples.

17:30

Mr. Gordon: That is right; that is what I want.

Mr. Laverty: All right. Example 1 is a residential complex purchased for \$1 million. We will assume in this first case that the initial debt is \$850,000, which is 85 per cent of value, and the initial economic equity is then equal to \$150,000.

Mr. Gordon: You show that by saying a down payment is 0.15 times V.

Mr. Laverty: Yes, a 15 per cent down payment on the total purchase value. We will assume in this case that there is a financial loss in year one of \$30,000, in year two of \$20,000 and in year three of zero. We are looking at the computation of the total economic loss after year three.

In step one the value of the building is equal to \$1 million, the allowed debt is equal to \$850,000 and the equity of redemption is equal to \$150,000. In this case neither the debt not allowed nor the excess debt are relevant, because the landlord is within the 85 per cent ratio.

In the second step, from equation 5 we know the initial invested equity will be equal, in this case, to the equity of redemption, or \$150,000. Using equation 7, the capitalized financial loss is equal to \$30,000 from year one plus \$20,000 from year two. There is no additional loss in year three, so the total capitalized financial loss is \$50,000.

In equation 8, or step 4, we add the initial invested equity of \$150,000 to the capitalized financial loss of \$50,000 for a total equity base of \$200,000.

In step 5, we compute the economic loss as being equal to the equity base times the rate of return. If the rate of return is equal to 10 per cent, then the economic loss is equal to \$200,000 times 0.1, or \$20,000.

Mr. Gordon: The 0.1 reflects--

Mr. Laverty: Ten per cent.

Mr. Gordon: Right.

Mr. Laverty: In case 2, if we are dealing with a building that has a building permit after 1986, we then look at what the Canada bond rate has been over the last three years. In this example we are dealing with a Canada bond rate of eight per cent, seven per cent and nine per cent. The average of those three years is eight per cent. Adding one per cent gives a nine per cent rate of return, and nine per cent of the economic base of \$200,000 is equal to \$18,000.

Mr. Gordon: You know we already went through this, Herb?

Mr. Epp: I had not noticed.

Mr. Gordon: We did not go through this, Herb. Let the record show that this is not the second time around for this explanation; this is the first time around for this explanation. Carry on.

Mr. Laverty: Thank you. In example 2 we are talking about the same purchase price of \$1 million and the same financial losses that we were talking about previously. However, in this case the initial debt of the landlord is \$950,000, which means that the initial economic equity is only \$50,000. Thus, the landlord has borrowed 95 per cent of the value of the building.

Mr. Gordon: This is something that the developers and the tenants are arguing about right now.

Mr. Laverty: Yes, this is a question they are currently arguing. The example is presented on the basis of a case in which the 85 per cent rule being used.

Mr. Gordon: Or waived.

Mr. Laverty: No, in this particular case the 85 per cent rule is being used. The allowed debt is equal to \$850,000; the additional \$100,000 of borrowing is classified as debt not allowed, and the equity of redemption is \$50,000--that is, the difference between the total debt and the value of the building.

Mr. Gordon: This is what they are still arguing about?

Mr. Laverty: Yes.

Mr. Gordon: Or this is a way around what they were arguing about?

Mr. Laverty: If the landlord's position were accepted on this particular case, then the allowed debt would be \$950,000, debt not allowed would be zero and the equity of redemption again would be \$50,000.

Mr. Gordon: Is step 1 then a way around the argument?

Mr. Laverty: No, not in the least. The difference is that if you do not allow it as debt, you cannot claim the financing on that additional \$100,000. However, that \$100,000 does qualify for the return on equity. Thus, you would be dealing with it as equity rather than as debt.

Mr. Gordon: This means there will be further government amendments on section 77, then?

Mr. Laverty: No. The question is how you define under the act the concept of debt not otherwise allowed, which is one of the terms that would have to be defined in regulation. If you accepted the landlords' position, then the debt not otherwise allowed would not refer to anything in particular. If you accepted the tenants' definition, then it would refer to the debt beyond 85 per cent of value.

Mr. Gordon: Most of this, then, is going to be regulations--what we are seeing here today.

Mr. Laverty: The particular definition--

Mr. Gordon: This would be in the regulations. It is obviously not in the act.

Mr. Laverty: Yes, it is an explanation of how the terms in the act relate to each other. You are correct that there will be further definitions forthcoming in regulations regarding the particulars beyond what is in the legislation. You are certainly correct.

Mr. Pierce: Will it be an appendix to the act?

Mr. Laverty: No, it would be in the regulations that are passed under the act. It would be contained in the regulations that the Lieutenant Governor in Council would approve.

Mr. Gordon: Is it the ministry's intention to provide the rent review administrators with a blackboard and chalk so they can explain these formulas and this algebraic business to tenants when they come in for their first and only hearing?

Mr. Laverty: Well--

Mr. Gordon: You do not have to answer that question. It is obviously a facetious question.

Mr. Laverty: The principles involved would be explained where an explanation would assist the sides in an understanding of the case. Whether blackboards would be used or other means would be used is something that is--

Mr. Gordon: Maybe tenants can have a special course in upgrading in community colleges financed by the Ministry of Housing.

Mr. Laverty: We will be exploring many forms of education, Mr. Gordon, and it would be premature for me to suggest the methods that would be most useful in this regard.

Mr. Gordon: Carry on. You are doing really well.

17:40

Mr. Laverty: The initial economic equity in this case would be equal to the equity of redemption plus the debt not allowed, or \$50,000 plus \$100,000, or \$150,000. Then the steps from this point are exactly the same as in example 1. That is, having arrived at an initial economic equity of \$150,000, we would then add to that the capitalized financial loss and compute the rate of return on the economic base. The numbers happen to work out to the same in this case--quite by coincidence, of course.

Example 3 deals with a case where the landlord has managed to persuade the lender to advance him loans that are greater than the total value of the building. The initial debt is equal to a first mortgage of \$950,000 and a second mortgage of \$200,000, which means that the debt is equal to \$150,000 more than the purchase price. Once again we substitute into our formula and get the value of the building as equal to the allowed debt, which is 85 per cent of the purchase price, or \$850,000. The debt not allowed is equal to \$300,000, which is the excess over \$850,000. The equity of redemption is nothing, because the landlord has not put any of his own money into the building, and the excess debt is the debt beyond the \$1-million mark, or \$150,000.

In this case the initial invested equity--in step 2 it should be IIE in examples 2 and 3--will be equal to the equity of redemption, which is zero,

plus debt not allowed of \$300,000, minus the excess debt, or again, \$150,000. Thus, you are not allowing the landlord a rate of return on the debt that exceeds the value of the building.

That completes the exposition of subsection 77(1).

The Acting Chairman (Mr. Morin-Strom): Why are you allowing a certain return on the debt portion instead of just reflecting what the mortgage rate actually is?

Mr. Laverty: As I discussed earlier, this is still a point of contention with respect to the advice we are getting from our advisory committee. This reflects the current position of the tenants. The tenants wish the allowed debt on the construction of a new building to be defined in an analogous manner to the maximum allowed debt on purchase, and the maximum allowed debt on purchase is equal to 85 per cent, called acquisition value. The tenants are arguing that they do not want to allow it as debt; they would rather allow it in the form of equity. The rate of return on debt and the rate of return on equity may be different. In individual cases there may be a difference in the total amount awarded to the landlord.

Do you wish further explanation?

Mr. Pierce: You indicated earlier that there would be no further amendments coming on these formulas, and yet there are some differences of opinion within RRAC. How do you rectify those differences of opinion without making additional amendments?

Mr. Laverty: What I am saying is that the differences of opinion being expressed within RRAC can be solved at the level of regulations and that either interpretation will be consistent with the wording of the act.

Mr. Pierce: I see. Could I ask you for some sort of schedule within RRAC when that determination will be made?

Mr. Laverty: It would difficult for me to ascertain exactly what time various agreements will be reached within RRAC. We do meet almost every week on these matters, and the agenda for each meeting is, of course, determined by those issues that seem to be both most pressing and most useful to proceed with. The nature of the discussion process within RRAC is not such that one can predict with any degree of accuracy the date on which any particular decision will be reached. It would be misleading for me to indicate to you a date on which this agreement might be reached.

Mr. Pierce: Is there any schedule--and this is getting away from the amendments--within RRAC for when it will conclude input into the regulations?

Mr. Laverty: We are proceeding as quickly as we can with it. I do not know that any formal deadline has been provided to RRAC. I am not aware of any.

Mr. Grenier: We do not have any formal deadlines. The first time I was here I indicated that we were about 85 per cent along. The last time I was here we were about 95 per cent along and we were chipping away at it. I imagine we will be 100 per cent before this bill is passed and the regulations are put in place.

The Acting Chairman: Are there any other points on section 77? Are we just dealing with subsection 77(1)?

Mr. Laverty: That is correct.

The Acting Chairman: Have we covered clause 77(1)(b)? At this point are we ready to move on to section 79?

Mr. Laverty: Sorry. In subsection 77(2) there is a separate--

The Acting Chairman: You want to go subsection by subsection.

Mr. Laverty: In this particular case the exposition would cover subsection 77(2). If the committee wished to do so, we could now examine the individual amendments to subsection 77(1) prior to going ahead with the exposition on subsection 77(2). It is entirely at the committee's discretion whether you want to take up the two particular amendments to subsection 77(1) now. If you people would like to, we are certainly prepared to do so.

The Acting Chairman: What is the impact of the specific amendment you made on subsection 77(1)?

Mr. Laverty: We have two amendments to subsection 77(1). The first amendment deletes a phrase in the initial draft "and capitalized losses" and substitutes "up to the amount of the acquisition costs of the residential complex, and capitalized financial losses."

17:50

There are two changes contained therein. First of all, the phrase "up to the amount of the acquisition costs of the residential complex" deals with the circumstance outlined in the third example, which I have just presented, that is, if the landlord's total debt is greater than the value at which he acquired the building. In that circumstance, we would not calculate a rate of return on the portion of the debt that was beyond the value of the building. Returning to our example, if there is a total debt outstanding of \$1,150,000 on a building acquired for \$1 million, the \$150,000 of debt beyond the \$1 million would be disregarded in the calculation of the rate of return on equity.

The second part of the phrase "and capitalized financial losses" adds the word "financial" because the initial draft was unclear as to whether the losses being referred to were the economic losses or the financial losses. The intent of the legislation was to capitalize financial losses. It was the intent of the advisory committee that those losses would be added into the equity base of the landlord.

Mr. Pierce: What is the difference between economic and financial loss?

Mr. Laverty: The financial loss is defined as a situation in which the costs to the landlord are greater than the revenues. Once again, take our example of a \$1-million building on which the equity portion is \$150,000. If the rate of return is 10 per cent, then the economic loss is defined by 10 per cent of \$150,000 or, in this particular case, \$15,000. This is the computation.

Mr. Pierce: It is not considered a financial loss then. It is considered an economic loss.

Mr. Laverty: Yes. It is the difference between the break-even point and the point at which the landlord would be earning the rate of return specified in the legislation. It would be the amount of money awarded to the landlord for him to be earning the rate of return set out in the legislation.

The Acting Chairman: In an accounting sense, it is not really a loss.

Mr. Laverty: It is not a financial loss in the economic sense. It would be referred to technically as the "opportunity cost" of the landlord.

Mr. Grenier: It is also a financial loss. If the landlord is getting a seven per cent return and the bond rate is nine per cent, he has just lost two per cent, no matter how you slice it. It is a real loss.

The Acting Chairman: I do not believe it is a loss with respect to costs being higher than revenues.

Mr. Grenier: Exactly, but the simplicity of a loss does not necessarily mean a loss on a dollar value, something below the break-even point. That is an obvious loss. The hidden loss is where the landlord is getting seven per cent when the rate is nine per cent. That is also a loss, although it is not a true loss in the sense of having been brought below break-even point. None the less, it is a two per cent loss in the marketplace. It is a real loss but it goes by a different name.

To answer Mr. Pierce's question, that is exactly how it is defined within the RRAC. You are losing money in the marketplace, but you are not losing on that building as such.

Mr. Pierce: It shows on your books as a paper loss.

Mr. Grenier: That is right.

The Acting Chairman: It would show as a gain, would it not?

Mr. Grenier: It shows as a gain, but it would show as a loss as against a benchmark. If the benchmark is now nine points, then it is a two-point loss. Those are clearly normal and consistent economic principles.

The Acting Chairman: However, they are not consistent with standard accounting practices.

Mr. Grenier: I think it is fairly consistent with accounting practice. In the building business, it is.

The Acting Chairman: How do we define acquisition costs? This is critical to the whole thing. Whether the mortgage is \$1,150,000, \$850,000, or \$950,000, you are aiming everything at getting back to the \$1 million and taking off the 85 per cent. Where does the acquisition cost come from?

Mr. Laverty: The acquisition cost of a new building would be defined in regulations, which are currently being drafted.

Mr. Pierce: Would it be defined in regulations? Would it not be the actual cost of acquisition?

Mr. Laverty: The regulations are attempting to define the cost of acquisition in a way which would reflect the costs in the marketplace, by and large.

Mr. Pierce: Let me ask a question then, Mr. Grenier. If a building is purchased for \$1 million, is that not the acquisition cost, or are you going to define that by regulation and say that although it cost you \$1 million to buy the building, the acquisition cost is only \$900,000?

Mr. Grenier: The acquisition cost in terms of what we are doing here relates to the amount of rent you are allowed to charge. For example, I might buy a building that is worth \$2 million for \$500,000, but I am buying it for reasons quite apart from the marketplace. If I am restricted to \$500,000 as a result of having made a particularly good purchase, if I value that amount in rent, that building is being depressed from the realities of the marketplace.

The converse is also true. If I pay someone \$2 million for a \$1-million building and then I go crying, to use the tenants' term, that I am not making enough money on the building, that is my difficulty. Therefore, the acquisition cost is not necessarily what you paid for it.

Mr. Pierce: Let me go back to your acquisition costs on the building you made a good deal on for \$500,000. Will acquisition costs by regulation give you a higher value for acquisition?

Mr. Grenier: Depending on the marketplace and on what the rent is. Remember, what we are trying to do is talk about the case where people are buying and selling buildings. We are trying to avoid the point where people buy and sell at uneconomic rates or at rates that are not consistent with the marketplace. The attempt here is to make sure people do not get into that business and then have rents go up and down. The Cadillac Fairview situation is the exact picture that has been painted. That is the very thing we are trying to avoid.

The idea of these regulations is to prevent that sort of thing. Those people who are in the business of rental accommodation will provide it at market rates. It will not be determined by what is happening in the marketplace in the buying and selling of buildings.

Mr. Pierce: On the other end of the equation is protection for the tenant. If you make a bad deal and pay \$2 million for a building that is only valued at \$1 million on the market, that is your problem.

Mr. Grenier: That is right.

Mr. Pierce: You can eliminate that philandering around by individual landlords who are trading properties back and forth.

Mr. Grenier: The tenants have had a very legitimate beef in that area, and we are trying to correct it.

Mr. Pierce: Thank you.

The Acting Chairman: Mr. Laverty, can you tell us, on this acquisition cost, is it based on an attributed value of the building at the time of construction or is it an ongoing process in which the acquisition cost can change at times of a further changing of hands?

Mr. Laverty: In the light of the state of drafting the regulations at present, I am not in a position today to give you a full and proper response to that inquiry.

The Acting Chairman: When will those regulations be forthcoming to mesh in with this bill?

Mr. Laverty: That concern of the committee's was raised earlier this afternoon. I have indicated I will convey the concern of the committee to the minister on that matter.

18:00

Mr. Pierce: Dr. Laverty, that brings the question about acquisition costs back again. Will acquisition costs, as dictated by regulation, not reflect what is happening in the marketplace today as opposed to what it cost to construct a building 10 years ago?

Mr. Laverty: That is the very issue which is under discussion. In view of the way our process works, it usually takes several meetings of our advisory committee before we manage to sort out those matters. All I can tell you at this time is that those very questions are being examined internally, hopefully to a successful conclusion in the near future. They are very good questions.

Mr. Pierce: If we are to look at anything other than market value in the transferring of property, are we not then looking at legislation or regulation that would say to single-family owners they cannot look at market value they are selling their own individual property?

Mr. Laverty: If we were to arrive at a definition of equity on purchase, which differed from that in the market, it would obviously have an impact on the market value of the building. However, the concern, and the concern that Mr. Grenier referred to, is that there is on the tenant side of the equation some concern that the selling of buildings may, for one reason or another, be somewhat inflated by the mechanics that some sales go through. There is a concern that if pure market were allowed, we may find some very heavy rent increases resulting from a rule which simply allowed the purchase price in all circumstances to be reflected in the rent. That is the nature of the discussion which is now ongoing.

Mr. Pierce: So there is reason for concern then by single-family owners--

Mr. Laverty: Certainly. If there were not reason for concern, I am sure we would have arrived at a conclusion on this one.

Mr. Pierce: --even for actual sale, because if we are to involve governments and regulation and legislation in respect to the sale of properties for rental purposes, not based strictly on market conditions, then we could expect governments to get involved in regulation and legislation for sales by single-family owners.

Mr. Grenier: What have you got now?

Mr. Pierce: The marketplace demands on single-family owners, not for rent, but for single-family owners.

Mr. Grenier: You have a complete aberration of the marketplace right now. Why do you think people are buying all these houses? It is a distortion of the marketplace, directly as a result of rent control.

Mr. Pierce: All right.

The Acting Chairman: Dr. Laverty, from what I see in clause 77(1)(b) particularly, where you talk about the three-year moving average--where you are trying to set the rate of return on a building based on the three-year average, as of the year in which the permit was issued--this certainly implies that you are talking about only an initial acquisition cost and not a changing acquisition cost and attempting to determine a greater return on that initial purchase value.

It would seem that it would be inconsistent to have a moving acquisition cost which would allow the basis for the rate of return to go above what a building cost to build in the first place.

Mr. Laverty: There are two separate concepts here. One of them is how is the equity base defined and the other one is how is the rate of return defined. These are the two parts of the equation we discussed previously with respect to the calculation of economic loss.

Looking back to equation 10 on page 1 of my presentation, economic loss is equal to the equity base times the rate of return. Prior to your question, we were discussing whether the equity base could be updated to reflect the value on purchase.

That is a separate question from whether the rate of return can be updated. I agree with your reading of the legislation that it implies the rate of return would be established as of the date of the building permit. There are two parts of the overall calculation which should be considered separately.

The Acting Chairman: Which are we on now? Canada bonds 10 years and over?

Mr. Laverty: That is correct. In the initial draft of the legislation, the reference was to the 10-year Canada bond rate. In fact, the Bank of Canada publishes two indices, one which is the five-to-10-year Canada bond rate and the other the Canada bond rate for 10 years and over.

The purpose of the amendment is to clarify which one of those two rates we wish to establish. The selection of the longer-term Canada bond rate is in recognition of the fact that a rental building is and should be considered as a long-term investment.

The Acting Chairman: Any questions? Then subsection 77(2).

Mr. Laverty: At this point, we can table the second part of our presentation dealing with the exposition of subsection 77(2) if that is the committee's desire.

The Acting Chairman: Sure. Let us take it now. We may want to sleep on it.

Mr. Laverty: This would allow you to have it for the weekend.

Mr. Epp: Do you really think it is important to have as far as sleep is concerned during the weekend?

Mr. Reville: It will help you sleep.

Mr. Laverty: Subsection 77(2) combines buildings into two categories. The first category involves those buildings for which the permit of construction was issued on or before July 1, 1986. The second deals with buildings where the permit was after July 1, 1986.

The first three pages of the handout deal with the first part, that is, the buildings where the building permit was issued on or before July 1, 1976. We are referring to the buildings that qualify for the elimination of economic loss, namely, those first rented on or after January 1, 1976. Those are the buildings to which we refer.

18:10

The first two pages run through an example of the initial rent increase award, and the rent increases for the subsequent years are illustrated on page 3. The purpose of the handout is to go through the first year so that you can get the hang of how these calculations are made, and then you can simply follow through on your own account in subsequent years.

In our example, the financing of acquisition in this case is the value of the residential complex, being \$1.1 million; the value of the debt, being \$800,000; and the initial invested equity, being \$300,000.

The base year financial loss is calculated from the rental revenues of \$180,000 and the total cost of \$190,000, which yields a financial loss of \$10,000.

For the economic loss in this particular example, we are using the initial invested equity of \$300,000 with a rate of return of 10 per cent, because it is a building where the permit was issued on or before July 1, 1986, and so 10 per cent of \$300,000 is \$30,000.

For the calculation of the initial rent increase award, there are three formulas on page 36 of your amended bill under clause 77(2)(a). The formula in subclause 77(2)(2)(i) is the elimination of economic loss over a five-year period. As we have just seen in point 3, the economic loss is \$30,000. If you divide that by five years, it is equal to \$6,000.

Mr. Pierce: Dr. Laverty, may I interrupt? What happens to the financial loss?

Mr. Laverty: The economic loss, the way it is defined, does not include financial loss.

Mr. Pierce: Unless it is further explained down below, is the financial loss then just forgotten about?

Mr. Laverty: No. The financial loss is taken up in the third formula.

In subclause 77(2)(a)(ii), the formula is five per cent of rental income. As you can see above, the rental income is \$180,000, and five per cent of \$180,000 is \$9,000. The other calculation that is found in subclause (ii) refers to the total of the amount that is required to eliminate the economic

loss, which is equal to \$30,000. That is the same \$30,000 we were discussing previously.

In subclause 77(2)(a)(iii), the formula is the full elimination of financial loss, which, from the second calculation, is equal to \$10,000--that is, from subclause (ii) above, where we calculated the base of your financial loss.

Now the selection method proceeds in two steps. First, you select the lower of the two methods in subclause (ii); that is, the lower of five per cent of rental income or the full elimination of economic loss. You are comparing \$9,000 with \$30,000, and the lower of those two figures is \$9,000.

You then compare that \$9,000 with the \$6,000 from the first formula and the \$10,000 in the third formula. In comparing \$6,000 with \$9,000 and \$10,000, the largest of those three numbers is \$10,000.

The formula therefore tells you that you should be selecting \$10,000. To that amount we are adding the residential complex cost index, which we have assumed here to be five per cent, and five per cent is equal to \$9,000. That means that the total rent increase in this particular case will be \$19,000. That \$19,000 is added to the base of your rent of \$180,000, to yield a rent for the next year, which is called year one, of \$199,000.

Mr. Reville: It might be a bit more understandable if we were aware that under selection method, when you say, "Select lowest of two methods in (ii)," you mean (ii) in the bill, not (ii) in the formula.

Mr. Laverty: They are meant to correspond.

Mr. Reville: So they do. Fair enough.

Mr. Laverty: We decided that this would help the committee to reference them in a consistent manner.

Mr. Pierce: We need all the help we can get.

Interjection: You think of everything.

Mr. Laverty: Not quite everything.

Mr. Reville: It must be a trick example, then.

Mr. Laverty: The second page gives a couple of entries that govern the calculation of the remaining financial loss and the remaining economic loss. In point 5 we calculate the economic loss account. In the base year, the year we are comparing, there is a \$10,000 financial loss. The rent review award to eliminate that loss is \$10,000, which means that we have eliminated the full amount of the financial loss, so that in the next year there is no remaining financial loss to be eliminated.

The second account on the second page, deals with the economic loss account. As we explained in our exposition of subsection 77(1), the capital base is equal to the initial invested equity plus the financial loss. Thus, it is equal to \$300,000 plus \$10,000, for a total capital base of \$310,000. Using a rate of return of 10 per cent in both cases, because we are dealing with a pre-1987 building in terms of the building permit, we generate an economic loss allowance of \$31,000 that is to be eliminated. In the first year, no part

of the revenue increase is allocated to economic loss and, therefore, the full \$31,000 is to be carried over.

I should say that there is one remaining discussion on this calculation that we will be taking up in the advisory committee tomorrow. To ensure that we are fully reflecting the interpretation given to us at RRAC, I may as well let you know what the matter we discussed involves.

In the RRAC report, page 2, recommendation 8 states that "where there is a phase-in of rent increases, the maximum legal rent, as defined in the act, will increase by the statutory guideline plus the applicable portion of the phase-in." That is, it is equal to the residential complex cost index plus the phase-in amount on economic loss, and the example I have handed out fully reflects this.

The controversy at RRAC, which will be discussed tomorrow afternoon in the economic regulation committee, concerns the interpretation to be placed on the second sentence in recommendation 8, which says, "The calculation of the operating loss phase-in will reflect the utilization of the guideline."

We can perhaps report progress on that next week. It is a matter on which the two sides do not share a common understanding as to what that sentence means. Frankly, until they arrive at a common understanding, obviously we do not understand it, either.

Page 3 of the example simply carries through similar calculations for the remaining years of the phase-in and exhibits the rent revenues and the rent increases that will be awarded by rent review.

Perhaps we could entertain questions on this part before going through the building permits issued after July 1, 1986.

18:20

Mr. Reville: Can you remind us where the other sections relating to financial loss are in the bill?

Mr. Laverty: Section 76.

Mr. Reville: You have me kind of buffaloed now. Does section 76 not suggest that increases to allow a landlord to recover financial loss should be phased in at a rate not exceeding five per cent?

Mr. Laverty: Subsection 76(3) refers to financial losses resulting from the purchase of the residential complex, so we are dealing with purchase. In section 77 we are dealing with the rate of return on new buildings.

It is an excellent question, because I will go on to indicate that under subsection 76(6), where a post-1975 building is purchased from the original owner and the building was constructed for the purpose of such a purchase, it is exempt from the five per cent phase-in. That is referred to within RRAC as the merchant builder exemption. In the interests of completeness, I can go into what that means, if you wish.

The problem we are faced with is that there are a large number of circumstances in which one individual will do the development of the building, and after completion and, in many cases, after a certain percentage of occupancy has been achieved, will then sell the building to those people who

are intended as its long-term landlords. There is a specialization between the development and the long-term operation of the building.

The exemption from the five per cent cap is to allow these merchant builders to stay in business. If the exemption from the cap were not granted, it would no longer make economic sense to acquire such a building. Therefore, we have exempted those to encourage a form of new supply that has been quite prevalent in the market over the past decade.

There is a second exemption, which relates to those purchases that occurred on or before April 18, 1986, the date of the RRAC report, and that was intended to limit the retroactivity of any imposition of the five per cent penalty.

We are seeking to clarify before RRAC whether the five per cent cap will apply where a post-1975 building does not qualify under either of those two exemptions. Time permitting, that is also something I hope to be able to discuss tomorrow afternoon.

The Acting Chairman (Mr. Morin-Strom): Perhaps on Monday afternoon.

Mr. Laverty: It may well happen that--

The Acting Chairman: Are you referring to discussing it with our committee?

Mr. Laverty: No, I am referring to the RRAC.

Mr. Pierce: Unless you want to come back.

Mr. Laverty: No, thank you.

Mr. Gordon: I think we have pretty well--

The Acting Chairman: At this point we can adjourn. We will be meeting Monday in room 228.

Meeting adjourned at 6:26 p.m.

R-63

STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
MONDAY, OCTOBER 27, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsview L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, E. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Substitution:

Knight, D. S. (Halton-Burlington L) for Ms. Caplan

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Laverty, P., Director, Rent Review Policy Branch, Rent Review Division

Stratford, L. A., Senior Solicitor, Rent Review Division

Peters, F. H., Executive Director, Rent Review Division

From the Rent Review Advisory Committee:

Bassel, J.

Hogan, M.; Co-Chairperson

Schwartz, J.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday, October 27, 1986

The committee met at 3:53 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The committee will come to order. With the new hours of the chamber from 1:30 p.m. to 6 p.m., we shall attempt to start the committee at 3:30. I know it is not always possible, but we shall try.

When the committee adjourned on Thursday, I believe Mr. Laverty was just swinging into high gear on section 77 and was about to dazzle us with some scintillating footwork. I was not here at the adjournment, so I am not sure which subsection of section 77 you were on.

Mr. Reville: Neither is anybody who was here.

Mr. Laverty: It is my understanding that I had completed the presentation that the ministry tabled yesterday on clause 77(2)(a). I would be delighted to proceed with the part of the presentation on clause 77(2)(b) if you wish me to pick up at that point.

Mr. Chairman: All right. That is appropriate.

Mr. Laverty: The only other alternative I offer you, if you want an alternative--

Mr. Chairman: No. Carry on.

Mr. Reville: What portion were you going to go into, Dr. Laverty, a permit issued after July 1, 1986?

Mr. Laverty: Yes.

Mr. Reville: Why do we not waive that?

Mr. Laverty: Do you wish me to bypass that section?

Mr. Chairman: Are we talking about clause 77(2)(b)?

Mr. Reville: The presentation is absolutely clear. I do not think we need to waste the committee's time by going into it in detail.

Mr. Chairman: That is up to the committee. Do you suggest we skip subsection 77(2), that there has been adequate explanation? If there is no comment--

Mr. Epp: He did very well and I think it is a good idea.

Mr. Chairman: It is nice to have a consensus on the committee. The next is subsection 79(3).

Mr. Laverty: Before we go on with subsection 79(3)--I hate to ask this--do you wish me to explain the actual amendments to section 77, or do you wish to proceed to the next section?

Mr. Chairman: I am not trying to rush. If there are any questions by members, let us have them.

Mr. Laverty: There are three amendments to subsection 77(2). If you wish, I can touch on them before we go ahead.

Mr. Pierce: We do not necessarily have to go into all the figures that were made available to us, but I suggest we briefly go through the amendments as they are proposed in the document.

Mr. Laverty: We are easy either way. We wish to proceed as the committee desires.

There are three amendments to subsection 77(2). The first deals with the preamble where we have added a reference to "financial loss" as well as to "economic loss" in terms of what has been eliminated by the phase-in. That is necessitated because, if you read on through the next page and the various ways in which we are eliminating the economic loss, we are also eliminating the financial loss. It is there merely for consistency.

The second amendment to subsection 77(2) brings forward several considerations. First, in subclause 77(2)(a)(i), we clarify that the elimination of economic loss is to take place over five years from the effective date of the first rent increase ordered under that section. The total time elapsed from the beginning of the process to the end of the elimination of loss under that option will be five years.

In subclause (ii), we talk about "five per cent of the gross potential rent for the preceding year or the total of the amount required to eliminate the economic loss, whichever is less." That other alternative will come into play in a circumstance where there is only three per cent of remaining economic loss to be eliminated. It makes it clear that three per cent should be awarded and not the full five per cent, which would award more than enough to eliminate the economic loss.

The third amendment to subsection 77(2), which comes in subclause 77(2)(b)(i), is a technical amendment that ensures that when we choose between subclause (i) and subclause (ii), we will wind up choosing the option that yields the smaller result. The way in which it was initially drafted, there was a technical flaw. In some cases you would have wound up choosing an option that had a higher total rent increase.

That is the nature of the amendments to section 77.

Mr. Reville: Under sub one, does that mean the economic loss, whatever the amount, must be eliminated within five years?

Mr. Laverty: Do you mean subclause (i) of clause (a)?

Mr. Reville: Yes.

16:00

Mr. Laverty: That particular option would call for a five-year limitation. The major reason for the insertion is that if in the first year you had gone with one of the other two options, most likely for the elimination of financial loss, and then in the second year you had come back to rent review for the further elimination of economic loss, that further loss would be eliminated over the remaining four-year period rather than starting over again at the five-year period.

Mr. Reville: If you eliminate your financial loss in year one, does your economic loss then have to be eliminated in four years or else you lose it?

Mr. Laverty: Yes. In the case where you had the financial loss elimination in year one, the economic loss remaining would be eliminated over a four-year period. That would be the effect of that amendment.

Mr. Reville: Can you imagine a set of numbers into which the economic loss would be rather significant?

Mr. Laverty: I could not come up with an example of that. In most cases, you would find that the five per cent method in subsection 77(2) would probably be larger than the economic loss in subsection 77(1), unless you had a very large initial investment by the landlord and a very small debt. In such a case it would be very unlikely that the financial loss would have qualified in year one as the largest of the three options. It is possible that it would be somewhat unlikely as a provision. I am not exactly sure what numbers you would have to select to find such a result.

Mr. Reville: Is there any cap on how much? Do you just prorate it over the four years?

Mr. Laverty: The remaining economic loss would be eliminated at one quarter of that loss per year in the example where you are eliminating for the remaining four years. You would divide it evenly and allocate it.

Mr. Reville: Could it be more than five per cent?

Mr. Laverty: Yes, it could be more than five per cent. The likelihood of its happening depends on the numbers.

As I have indicated, that scenario is less probable than other scenarios, but we probably could find a set of numbers for you where--

Mr. Reville: It relates to the debt-equity ratio. If you had a very high equity, I presume you might have a very large economic loss.

Mr. Laverty: Yes.

Mr. Reville: That would not very often be the case in a building of this description.

Mr. Laverty: It would be unusual. I suppose there are circumstances where the landlord might be, shall we say, a life insurance company, which is not allowed to take out debt on its own buildings. In that particular case of a life insurance company, you may find that the five-year elimination would be the dominant criterion. At the same time in such a case, in all likelihood the

elimination would be over five years rather than over four because in that particular scenario it would be unlikely that there would be a financial loss in the first year.

Mr. Reville: Finally, was any thought given to capping the amount by which rents could increase by virtue of the losses in this section?

Mr. Laverty: To be quite frank with you, I am not sure I could recall all the alternatives that were considered. That is just a failure of my memory and nothing else.

Mr. Reville: Do any of your colleagues recall?

Mr. Bassel: Mr. Reville, I was on that subcommittee, and the answer is no.

Mr. Chairman: Any other questions on section 77? If not, we will move on to the next proposed amendment, to subsection 79(3).

Mr. Laverty: On section 79, the amendment here is to allow, in the process of equalization, a reduction in rents as well as an increase in rents. The practical effect is that, first, there are tenants who are receiving a very clearly perceived benefit from the equalization process; and second, the equalization itself can be accomplished somewhat more quickly if you are allowing decreases as well as increases in their calculation.

Mr. Pierce: I am just trying to get caught up here. Subsection 77(3) and the amendment formula, can you tell me where it is in the original bill proposal?

Mr. Laverty: Subsection 79(3).

Mr. Pierce: Subsection 79(3). I am sorry.

Mr. Laverty: No, there is no subsection 79(3) in the initial bill. It is an entirely new subsection.

Mr. Pierce: It is not an amendment, then; it is a new section.

Mr. Laverty: If you wish. I am not sure what the parliamentary terminology is.

Mr. Chairman: It amends the bill by adding a section.

Ms. E. J. Smith: That is an amendment.

Mr. Chairman: All right, subsection 80(1).

Mr. Laverty: Subsection 80(1) is an amendment that is added to clarify when section 80 applies. Section 80 applies when there is a whole building review--that is, an application made under section 71--and the various considerations apply in those circumstances and not in other circumstances. It is a clarification.

Mr. Chairman: Anything on subsection 80(1)?

Mr. Laverty: Subection 81(3a) is similar to the amendment we discussed to add subsection 79(3). The amendment allows the minister to lower a rent during the rent equalization process.

Mr. Chairman: This is a brand-new subsection.

Mr. Laverty: Again this is a brand-new subsection.

Mr. Chairman: Anything on subsection 81(3a)? If not, subsection 82(1).

Mr. Laverty: The purpose of section 82 is to allow either the landlord or the tenant to apply for an adjustment to financial or economic loss or to extraordinary operating costs within two years of the initial application. From a tenant perspective, there may have been a concern that the landlord's operating costs were unusually high in the year he went to rent review. Alternatively, the landlord may from subsequent experience believe the amount he had requested was too low in terms of his regular operating costs.

16:10

In the initial draft, the reference was made only to operating costs in respect of maintenance. In checking the drafting against the Rent Review Advisory Committee agreement, page 3, item 7, there was no such limitation placed in that recommendation from RRAC. To be consistent with the agreement, we have deleted the reference to the maintenance operating costs so that any operating cost decrease can be looked at again within two years.

Mr. Reville: Will you give us the number of the section relating to extraordinary operating costs, please?

Mr. Laverty: The extraordinary operating costs are dealt with elsewhere in the legislation in clause 72(b), which is the listing of the basis on which a rent increase can be justified in the course of the whole building review.

Mr. Chairman: Are there no more questions? This pace is making me giddy.

Mr. Reville: I have another question, just so you can catch your breath, Mr. Chairman. This deletion has the effect of covering an order in respect of any extraordinary operating costs.

Mr. Laverty: That is correct.

Mr. Reville: Is there not another section, though, relating to extraordinary operating costs?

Mr. Laverty: I do not believe there is any other provision in the act.

Mr. Reville: If I find one, will you give me a nickel?

Mr. Laverty: That is a lot of money, Mr. Reville. As far as I can recall, those are the only two references in the act to the extraordinary operating cost revision. Yes, at a nickel a shot, you are on.

Mr. Reville: I will be out of the play for a while, while I comb this bill.

Ms. E. J. Smith: Let us really move now.

Mr. Reville: I will offer two cents to anyone who can find this section.

Mr. Chairman: Is there anything on subsection 82(1)? If not, we will go to subsection 83(3).

Mr. Laverty: There are two provisions contained in this amendment. One changes the word "submissions" to the word "representations". The reason for doing so is that elsewhere in the act, reference is made to representations. For the sake of consistency, we wish to have all such representations referred to as representations rather than submissions.

The second half provision deals with the period during which any other written representations can be made. We are changing it from 45 to 40 days to be consistent with subsection 71(5), which is whole building review and has exactly the same time period. To let you know one of our internal secrets, in the initial drafting of the act, subsection 71(5) and subsection 83(3) were both 45 days. We changed subsection 71(5) to 40 days but forgot to change subsection 83(3). We are correcting that oversight by this amendment.

Mr. Chairman: Is there anything further on subsection 83(3)?

Mr. Reville: I was going to interject that 40 days is a number we all remember, but I was not going to say why, just in case.

Mr. Gordon: As a member of this committee, I feel that my privileges have been offended, transgressed upon and trampled upon.

Mr. Chairman: Is this a point of privilege?

Mr. Gordon: It is a point of privilege. When I pick up the paper and read that one of the members of this committee accuses the New Democratic and the Progressive Conservative members of holding up the new rent review legislation by using procedural tactics, I think that is a lot of hogwash. I would like the member either to retract what she had to say or to be able to justify what she had to say.

Just the other day, we spent a great deal of time going over the phase-in of economic loss and the rate-of-return equations, which barely anyone could understand. If we wanted to be really nasty, we could easily spend a month on both these papers, and I defy anybody in this room to prove otherwise. The RRAC certainly did not discover and understand all this stuff that we had to go through last week on a moment's notice.

Now we find that members of this committee are being accused of holding up things because we want to understand the bill. The government brought in more than 100 amendments and it is going to bring in even more, and we are told that we are holding up the bill. I think my privileges have been trampled upon. I do not like it and I expect an answer. I resent it.

Mr. Chairman: Sincerely, I do not believe it is a matter of privilege to object to something that has been written in the press. It is a matter of opinion and information, and the committee accepts that, but it really is not a legitimate point of privilege. However, you have made your point, and if people want to respond to it, they can do so.

Mr. Gordon: Do I take it that the member refuses to respond to it?

Mr. Chairman: To be fair, there is no obligation to respond to a matter of information or opinion, Mr. Gordon. I do not like to fall back unduly on the standing orders, but it is not really a matter of privilege.

Mr. Gordon: Knowing you, Mr. Chairman, I know you do not want to be unfair.

Mr. Chairman: Thank you, Mr. Gordon.

Ms. E. J. Smith: I would like to respond personally to the member afterwards. I do not want to hold up the progress of the committee.

Mr. Gordon: I find even that statement offensive.

Ms. E. J. Smith: I am not surprised.

Mr. Gordon: She says she does not want to hold up the progress of the bill, meaning, "For a member of this committee to say we do not like being treated in that manner"--

Mr. Chairman: To be fair, I think Ms. Smith was responding to the chairman's ruling that it was not a point of privilege.

Mr. Gordon: I know what innuendo is all about.

Mr. Chairman: I am not touching that line.

Is there anything further on subsection 83(3)? We are on subsection 85(1).

Mr. Laverty: We attempt to have consistent explanations throughout. In subsection 85(1), we are changing the--

Mr. Gordon: What page are you on now? Sorry. Is that considered holding up the committee? Is it okay if I ask what page it is?

Mr. Chairman: Subsection 85(1), page 40.

Mr. Laverty: We have inserted the word "occupied" in the second line in lieu of the word "rented." That is done because there are circumstances in which the rental may precede the occupancy by some considerable length of time, and in some cases can actually be done well before construction is completed. It seems to us to be more consistent to deal with the occupancy date rather than the rental date as the date before which a landlord may make an application to get a conditional determination of the matters relating to the rate of return on a new residential complex.

Mr. Chairman: Are there any questions or comments on subsection 85(1)?

Mr. Reville: I can see that there might be quite a difference in time between the time the first rental unit is rented and the time it is occupied, but when it is rented, presumably it is rented on certain known terms and conditions. You are not intending that to change.

16:20

Mr. Laverty: If the rental agreement were for a fixed sum of money, it would be a private contract that the two parties could enter into. I do not

think there is a suggestion that such a contract could not be entered into and enforced.

Mr. Reville: Suppose the landlord does make an application and an order is made under this section, when does that take effect? You get a year to do it; I see that.

Mr. Laverty: The way it is outlined in subsection 2, you would have to make a subsequent application to the minister to review the order in the light of the actual course of action. Under subsection 3, that subsequent application has to be made not later than 12 months after first rental. Then you either vary or confirm the order, depending on whether the initial conditions are complied with.

Subsection 5 just explains that a conditional order, of and by itself, does not have any effect unless it happens to be confirmed. That is the basic outline of what section 85 does by way of procedure.

Mr. Reville: Hang on for a second. What the landlord wants is an order that relates to some action he may take in regard to the rate of return.

Mr. Laverty: Yes.

Mr. Reville: What action can the landlord take that will affect the rate of return? It will have to do with the rent-setting.

Mr. Laverty: You are going to confirm the date on which it was made. You will perhaps give him a ruling on how certain financing would be treated and so on. It is analogous to the advance rulings that you can get for income tax purposes through the Department of National Revenue. The landlord would know with certainty in terms of his proposal how each item would be treated in the course of rent review, so when he was structuring his investment decision, he would be able to determine what the impact of the rent review treatment would be on the rent he could claim.

Mr. Reville: How does the tenant find out about that?

Mr. Chairman: Mr. Bassel wants to make a contribution.

Mr. Bassel: I want to try to help you, Mr. Reville.

Mr. Reville: I would appreciate it.

Mr. Bassel: If I am preparing to build a new project, I will do a pro forma of the revenue and expenditures and there are certain unknowns at that time. However, at that time, I want to be able to find out whether the pro forma is acceptable. All that this "occupied" means is that I have to do it before the first rental unit is occupied. The things that could vary are such things as the interest rate on the mortgage, which will probably not be fixed until such date. You will not know the actual taxes on the project and you will not know the history of the energy consumption. There are so many things we estimate that will not be known.

At any rate, we want to be able to fix the maximum legal rent regardless of the rent that is going to be charged on first occupancy. That is the whole purpose of this procedure. I do not know whether that clarifies it for you.

Mr. Reville: That is very helpful, thank you. At what point in this

process does the tenant who may not yet have occupied the unit learn of what happens in the conditional determination? Does it say that anywhere in here?

Mr. Laverty: The tenant would learn of it in the subsequent application. Subsection 19(2) of the act would require the landlord to inform the incoming tenant of any order that existed, and therefore, the tenant would know when he entered into the contract the terms and conditions on which the landlord had made his investment and he could make his own judgement on whether he wished to proceed with the rental.

Mr. Reville: Say again?

Mr. Laverty: Which part?

Mr. Reville: I already have a contract with you to rent a unit and I am going to occupy it on some date in the future.

Mr. Laverty: Yes.

Mr. Reville: Before I occupy it, the landlord gets a conditional determination of some courses of action. I am notified that, subject to subsection 19(2), this conditional determination has been made. Can I then say goodbye?

Mr. Bassel: Under the Landlord and Tenant Act, if you had signed an offer to lease, I suppose you could not; but you could say goodbye at the end of your first term of residency, because you and I have already negotiated. You are going to be my tenant, and I have agreed to lease the unit to you for \$700, as an example. You have agreed to lease it for that price. You know it is a new building. In all likelihood, the conditional order or the predetermination order would have been made before I even put the shovel in the ground, rather than just--

Mr. Reville: In a lot of cases, before anybody has actually rented the unit.

Mr. Bassel: That is right. I would say in most cases. A developer would have to be imprudent to wait until such time, and his lender--

Mr. Reville: I cannot believe there would be an imprudent developer.

Mr. Bassel: There are a few of us.

Mr. Reville: In any event, I would have a year in which to consider whether I wanted to continue my tenancy under the new arrangement.

Mr. Bassel: That is right.

Mr. Reville: What goes in the registry? The order.

Mr. Laverty: Yes, an order made under the act would go into the registry.

Mr. Reville: So I will know in advance when I am moving, too. That is good to know. Thank you.

Ms. E. J. Smith: To follow up on Mr. Reville's concern, which I share--and I wonder whether this was examined--as I understand it now, I could sign a lease with you.

Mr. Bassel: Yes.

Ms. E. J. Smith: I could sign a lease now for something that is still being built.

Mr. Bassel: Yes.

Ms. E. J. Smith: At any time up until the day before I move in, you can put in an order, and I cannot get out of my lease. I might have assumed correctly that rent control regulations were in place when I contracted with you. Was any thought given to the fact that once you inform me that you have this open-ended clause, I should have an opportunity to reconsider my lease?

Mr. Bassel: No, that was not discussed. Actually, if you and I make an open market decision to become landlord and tenant with each other, and we agree on a price, not only are you committed to it, but so am I. I have to give you that unit for the price at which I agreed to give it to you.

Ms. E. J. Smith: Not any more.

16:30

Mr. Bassel: Yes, I do. If I sign a contract with you, the only thing that can happen is that at the end of the year--and you have a year to decide whether you are happy with the arrangement or with what your new rent might be--the maximum legal rent will be registered, and your rent will be what you are paying.

Ms. E. J. Smith: I suppose they are no more at risk at that point than anyone else.

Mr. Bassel: That is correct.

Mr. Reville: I have a few more questions.

Mr. Chairman: Go ahead.

Mr. Reville: Under section 85, is the appropriate determination by the minister absolutely binding in respect of the application under section 71, and if so, how so?

Mr. Laverty: It is conditional on the terms and conditions being fulfilled. As Mr. Bassel indicated, if the taxes were different to what the landlord initially indicated, or the mortgage rate or any other particular were different, then a variation in the order would occur.

There is still a question about whether the landlord has done precisely what he set out initially, presuming he set everything out initially. If he did not, he would get an order for only those things he requested. He might not necessarily go in with all the information that would be needed to know the rent. He might submit less extensive information and get a less extensive order.

The problem we were wrestling with is the need to give certainty to the landlord when making an investment in a situation in which the potential tenants of that unit did not exist because the building did not exist.

Mr. Reville: Yes.

Mr. Laverty: Therefore, we are trading off the certainty that a landlord needs to invest with the provisions for the tenant to be able to raise questions where the landlord's actual course of activity varied in any regard from that initially contemplated. That was the balance we were trying to strike here.

Mr. Reville: That is helpful, but is there a subsection of section 72, for example, that covers the course of action contemplated by section 85?

Mr. Laverty: Under section 72, or more precisely under section 71, the landlord might well be making an application for a rent increase that will occur in the second year of building operation.

Mr. Reville: Yes.

Mr. Laverty: When the landlord came forward with an application for year two, if you wish, additional information would be relevant in terms of the landlord's projected cost increase. That information may not have been part of the initial material filed by the landlord or, alternatively, it might be substantially different to that filed by the initial landlord. That additional information would be either beyond what the conditional order indicated or it might be at variance from the initial order. A good deal of argument and discussion might--argument is not the right word, of course, but a good deal of discussion might ensue about whether--

Mr. Reville: I think "dialogue" is the word you want to employ, love and cherish.

Mr. Laverty: That is an excellent word. Dialogue might ensue as to what the differences were, what additional information had been put forward and what the nature and validity of that information happened to be. There would still be a number of areas that would be open for further discussion at that point. However, to the extent that the landlord had complied with the terms and conditions he set out to the minister initially, that part of the order would be varied.

Mr. Reville: I have one final question. What persons are the minister in respect of subsection 85(1)?

Mr. Laverty: The power to delegate under section 12 is rather broad. "The minister may in writing delegate any power or duty granted to or vested in the minister under this act to any officer or employee of the ministry, subject to such limitations, restrictions, conditions and requirements as the minister may set out in the delegation."

Mr. Reville: I think you are teasing me. I know all about that. Will it be a rent review administrator who looks at these applications? Will it be Mr. Peters? Will it be you? Will it be Ms. Hogan? Who will it be? You must have in your mind a particular job classification that will accept all these applications.

Mr. Laverty: Mr. Peters would be in the best position to give you a full answer on that one.

Mr. Reville: The heads swivel.

Mr. Peters: The applications, regardless of the section under which they are filed, will be dealt with by the rent review administrator. If

necessary, they will be subject to review by the office manager or possibly by someone at the regional level, but the point of contact will be the rent review administrator.

Mr. Reville: That person is one of several people in that job classification located in convenient offices right across the province. Am I correct?

Mr. Peters: That is correct.

Mr. Reville: It is marvellous the way these things work. That was all I wanted to know.

Mr. Chairman: Is there anything else on subsection 85(1)? If not, we will move on to subsection 85(3).

Mr. Laverty: In subsection 85(3), in the initial draft of the legislation, the order confirming the conditional determination had to be made within a period of 120 days after the first rental unit was rented. Subsequent to drafting that subsection, there were those in the industry who indicated to us that that might not be sufficient time to have all the information that would be necessary to confirm that order. In view of that, we extended the period to a 12-month period after the first rental unit was occupied. The 12-month limit is there because of the desirability of confirming or not confirming the conditional order prior to any first rent review decision on a rent increase.

Mr. Cordiano: Would that information be available to that tenant prior to the expiration of the 12-month period, before he renews his lease?

Mr. Chairman: Mr. Cordiano, speak into the mike.

Mr. Laverty: Any application for a rent increase would require notification of the tenant. The rent increase notice is covered under section 5 of the act, and the procedures relating to the rent review increase would be covered in section 71.

Mr. Bassel: I think I can help with that one a bit. If the landlord did not make his subsequent application in time for that first tenant to be notified, the tenant would be protected to the extent that the only increase the landlord could give him would be that guideline increase.

Mr. Pierce: Perhaps somebody could give me some background on the discussion that took place within RRAC that would change that from 120 days to 12 months. I can appreciate that maybe more time was required to determine the actual impact, but I am wondering about the extent of the amount of time.

Mr. Laverty: John Bassel probably could give you some information about that. The primary problem is the takeout mortgage and the fact that it may be delayed, dependent on occupancy. That is the major circumstance.

16:40

Mr. Bassel: I do not think the Rent Review Advisory Committee agreement used the 120 days. That 120-day figure did not come from RRAC. However, the fact of the matter is it was discussed at length at RRAC. To give you a little background on how these projects operate, from the date of the

first rental until the building is fully rented can be and usually is a substantial length of time--eight, nine or 10 months--even in a good rental market because naturally these are the highest rents on the market.

One cannot determine one's cost to rent it up, so to speak, in 120 days because it is still an unknown figure, such as the cost of operating the building with only 15 or 20 per cent rented and the cost of the taxes, because as you probably know, the taxes are determined, based on the rents. The tax assessors--I am talking about municipal taxes--will not have done their evaluation. The other factor, which Mr. Laverty touched on, is that most mortgage commitments have a trigger. The funds will not be fully advanced and the mortgage could even be withdrawn until such time as the building is 85 per cent rented. That number cannot be determined.

The other thing the lenders do is to say that the funds must be fully advanced by a certain date or the mortgage will not be advanced. If that were to happen, if you could not rent it up in time, you might lose your mortgage commitment. You might have to go and get another mortgage commitment at whatever the current rate is, which might be higher. As a matter of fact, what the landlords wanted was a year from 85 per cent occupied. In discussions, we settled on a year from the date fully rented, because a year from 85 per cent occupied could be two years.

Mr. Laverty: I note in addition that under subsection 18(5) the minister could grant an extension of time to a landlord if, as Mr. Bassel said, the taxes were not yet determined or the mortgage taken out was not yet determined. In those circumstances, in considering the nature of the reason the landlord did not want to get the determination in 12 months, the minister could extend that time for the landlord to take into account the fact that the landlord was not in a position to confirm all the particulars of the initial conditional termination. There is some flexibility even beyond the one year in circumstances where a landlord would not be in a position to make such a determination.

Mr. Pierce: As a point of clarification, you made reference to the fact that municipal assessment is not complete until the occupancy of the building reaches a certain level. Is that right?

Mr. Bassel: They put on the assessment progressively. I cannot remember the section of the Municipal Act. They send us a letter that asks what units are occupied and what the rental levels are.

Mr. Pierce: Once the units are completed and ready for occupancy, they are subject to full assessment whether they are full or not. Is that not right?

Mr. Bassel: They are supposed to be, but sometimes municipalities do not react that quickly. Sometimes they put on the assessment beforehand. If I have half a building ready, they will assess that half even though the rest is not finished.

Mr. Pierce: The act reads that you have something such as three years to complete construction and then you get full assessment whether you have completed construction or not.

Mr. Bassel: If we had to spend three years on these, we would not be around much longer.

Mr. Chairman: Is there anything else on subsection 85(3)? Before Mr. Reville stepped out, he asked me if the committee will stand down subsection 88(2) until he got back. Any problem with that?

Ms. E. J. Smith: Step down the whole of 88?

Mr. Chairman: That is probably wise. We will move to subsection 89(1).

Mr. Laverty: In the initial draft of the legislation, we omitted the possibility that hardship might be granted over a period of two years. Under subsection 76(5), provision is made to award the two per cent hardship allowance in the last year of a phase-out of financial loss, where the award of that two per cent combined with the remaining phase-out of financial loss does not exceed five per cent.

The problem we are correcting in section 89 is that in the last year of financial loss phase-out, four per cent of the financial loss may remain to be phased out. In that circumstance in that last year of financial loss phase-out, an additional one per cent for hardship could also be awarded.

The amendment to section 89 would mean that the remaining one per cent of hardship could be awarded in the next year without a new application being made to rent review under the phase-out provisions set out in section 89. It is a similar procedure to the phase-outs that are used in other cases enumerated in the original subsection 89(1).

Mr. Chairman: Anything on clause 89(1)(d)? To finish, let us do clause 89(1)(e) and then go back to section 88.

Mr. Laverty: Subsection 89(1) of the bill is amended to add the clause basically recovering financial cost increases that are subject to phasing in under prescribed rules.

The reason for this amendment relates to two kinds of mortgages. One is the mortgages under the assisted rental program, which was a program run by the federal government in the late 1970s. The second kind of mortgage is the graduated payment mortgages that are made by private lenders. Under these mortgages, the initial payments on the mortgage are lower than under a conventional equal payment mortgage, and then the mortgage charges will increase over time, by a prespecified amount.

The purpose of the amendment to section 89 is to allow for the annual increment in payments to be passed through in a phased-in manner instead of requiring the landlord to come back during every year of the continuing mortgage to get a re-award of that year's increase in financing payments.

Mr. Reville: Any notion of how prevalent the graduated payment mortgages are?

Mr. Laverty: Yes, if you will just hold on.

Mr. Reville: I do not want an overhead.

Mr. Chairman: Dead air does not bother this committee.

Mr. Reville: We are not on television anyway, so we can have as much dead air as we need.

Mr. Laverty: It is very difficult to have more dead air than you had last week.

Mr. Reville: Dare to be great, Dr. Laverty.

Mr. Laverty: Yes.

The number of buildings with graduated payment mortgages from 1976 until late 1985 was 208 buildings with 17,600 units, and the number with assisted rental program mortgages was 350 buildings with 35,000 units, for a total of 52,600 units in 558 buildings. That is an Ontario figure, of course.

16:50

Mr. Reville: Are you not glad I asked?

Mr. Laverty: Yes.

Mr. Reville: Is that about five per cent of the stock?

Mr. Laverty: Yes. It is approximately five per cent of the private rental stock and constitutes a very large portion of the rental buildings completed since 1975.

Mr. Reville: The 35,000 units that are not graduated-payment mortgages but are under the federal financing--

Mr. Laverty: The assisted rental program?

Mr. Reville: It is ARP, is it?

Mr. Laverty: Yes.

Mr. Chairman: Anything else on subsection 89(1)? If not, we will go back to subsection 88(2).

Mr. Reville: Excuse me, Mr. Chairman. Did you know there was a sheet on this?

Mr. Chairman: No. To what are you referring?

Mr. Reville: Mr. Peters says there is a sheet.

Mr. Chairman: An explanatory sheet? Are you talking about section 88 or section 89, Mr. Reville?

Mr. Reville: No, on ARPs and GPMs.

Mr. Chairman: Graduated-payment mortgages.

Mr. Laverty: We do have material on that, if the committee wishes it.

Mr. Reville: You know how upset we get if we think there is material.

Mr. Laverty: We can certainly table that.

Mr. Reville: We are always trying to improve our knowledge, Dr. Laverty. It does not do any harm to have a bigger knowledge base, I reckon.

Mr. Laverty: It can be dangerous at times.

Mr. Chairman: We have noticed.

Mr. Reville: I find it keeps you from falling over. The bigger your knowledge base--

Mr. Chairman: We are back at section 88.

Mr. Laverty: Subsection 88(2) adds a two-year limitation on applications for chronically depressed rent status. That is in order to conform to the RRAC agreement and, in particular, to number 2(c) on page 6 of the RRAC agreement, which states that the deadline for applying for relief of chronically depressed rents is two years after proclamation of the provision.

Mr. Reville: That inspires a question. Would either of the RRAC members care to enlighten us on why there is a two-year window?

Ms. Hogan: As I recall, it was simply to put a deadline on it from the tenant point of view so the potential application was not hanging around for ever and there would be some certainty.

Mr. Reville: A limited Damoclean sword.

Ms. Hogan: If you want to put it that way.

Mr. Chairman: Anything else on subsection 88(2)? If not, subsection 88(3).

Mr. Laverty: The purpose of the amendment to subsection 88(3) is to specify that the approval of the minister for the full adjustment either on vacancy or on consent of the tenant requires a written approval, which will provide a record for future reference and also provide documentation for the purposes of the rent registry.

Mr. Reville: Is the minister the rent review administrator?

Mr. Laverty: Excuse me?

Mr. Reville: Is this another of the functions of the rent review administrator?

Mr. Laverty: The minister can delegate that function, as he can any other administrative function in the act.

Mr. Reville: Are you going to tell me the section?

Mr. Laverty: It is under section--

Mr. Reville: Please do not tell me the section.

Mr. Chairman: Do you want to go over the whole play again?

Mr. Reville: No, I do not want to go through that play. I saw that play. It was great, but it will not run very long.

Is any evidence required by the minister that the unit became vacant in the approved manner?

Mr. Laverty: The minister may well wish to satisfy himself that the unit was indeed vacant or, in the case of a consent, he might well wish to ascertain that it was given in a truly voluntary manner by the tenants.

Mr. Reville: How will the minister determine that, one wonders. In an affidavit sworn by the tenant?

Mr. Laverty: Those procedures are not fully developed at this time.

Mr. Reville: Will they be in the regulations?

Mr. Laverty: They indeed might well be in the regulations.

Mr. Reville: They might not be, too. I guess that is the corollary.

No more questions.

Mr. Chairman: I see you have been provoked.

Mr. Gordon: Yes. Dr. Laverty indicated he would be talking to the minister about regulations last week. It is on record. Do you have anything to report on regulations?

Mr. Laverty: Yes. We reported the concern of the committee back to the minister, and he is considering the request of the committee.

Mr. Gordon: Very good. Since they are about 75 per cent ready or more, maybe 85 per cent now, the regulations should be tabled when we get into clause-by-clause.

Mr. Chairman: I hope the minister understands the desire of the committee to have as many of the regulations as possible when we get into clause-by-clause.

Mr. Laverty: He is aware of your concern and of the committee's concern.

Mr. Gordon: This bill is so incredibly complex that what we see here is just the tip of the iceberg. That is why we have to see the regulations.

Mr. Reville: If I may be allowed an interjection, it is very difficult for the opposition to obstruct the government if we do not know what the government is doing. I just advance that for your use, Ms. Smith. Please help us out.

Ms. E. J. Smith: The government wishes to co-operate as much as possible in this. It is obviously impossible for all the regulations to be written on a bill when the bill is still being written. That is number one.

Second, the Rent Review Advisory Committee, which is working and will continue to work on and be involved in the regulations, will be working on this along with the government in the new regulations.

I am a neophyte here compared with some of the other members. I would be very interested to have them produce historical evidence of complicated bills where the regulations were all tabled at the same time as the bill. I do not think it is possible or historical.

Mr. Chairman: Your point is correct. However, you could also search long into the history books to find a bill that had as many government amendments brought forward after it was introduced and debated on second reading as well, so I think that sword cuts both ways.

Ms. E. J. Smith: I agree. The number of amendments also represents the fact that this bill has been put together by a committee that is constantly working--along with the technical amendments, which are less difficult to understand. We will spend a lot of time thrashing at air if we think we can have all the regulations in place before the bill has been finished being looked at. I do not think that would be possible.

We have said repeatedly and we will continue to say that we view this bill, complex as it is, and especially because it is so complex, as a bill that will be continually worked on and improved over the coming years.

Mr. Gordon: Just to address some of the comments that have been made, I certainly think you must realize that, given the complexity of this bill--you tell us that amendments to the bill itself are being made even now--you can hardly blame the opposition for wanting more information and knowledge about the bill.

You talk about a delicate balance. So many different issues are dealt with in this bill, it is such a complex bill, that in fairness to the legislators who are here to try to improve it, to make it a better bill for all Ontarians, we must be able to see those regulations. Granted, we recognize that you will not have 100 per cent of the regulations ready to show us in the ensuing weeks. We all recognize that.

17:00

At the same time, we think that in all fairness, to give us the opportunity to access properly what is happening here and to be able to participate in it, we should have at least 75 per cent of the regulations before us as the bill unfolds. We owe it to the people of Ontario, because in reading this bill over and in listening to everybody who has come before us, it is quite obvious that some really swampy areas will develop as a result of this bill. I want to see some of these areas avoided in the interests of both tenants and landlords.

Ms. E. J. Smith: In some ways, it seems to be a contrary argument to me to say that if it were a simple bill, it would be impossible to have the regulations and you would accept that, but since it is a complicated bill, we must have them. The reverse seems to make more sense. The very fact that it is so complicated makes it all the more complicated to have detailed regulations for everything. I cannot expect you to take my word for it, but I believe it will be useful to share as many regulations as possible.

However, If you start setting numbers, it is like saying we have thrown around 100 amendments. Such a figure becomes meaningless. There are probably some very important amendments, but 100 as a term becomes meaningless, because some of them are only corrections, such as the 40 from 45 we just got to. Others are very meaningful. To start counting them and that sort of thing--we should and we will try to share with you as much information as we have as we get it. Some of it will not be in place until the bill is in place.

Mr. Cordiano: Let me make a comment. To be fair, I think what we were anxiously awaiting was some of the amendments that would be tabled with

regard to the maintenance standards board. That is a very important feature of the bill.

Ms. E. J. Smith: That is an amendment, not a regulation.

Mr. Cordiano: I understand that, but we sort of agreed to the process that would be followed, that we would go through this process of looking at all the various amendments that were advanced in the bill. I believe we are doing that and have taken enough time to go through that process in great detail. Following that, I believe the regulations will be made available as soon as we go through clause-by-clause. We all agreed to that process at the beginning. As a result, I trust that the regulations will be made available some time in the near future.

Mr. Gordon: That is exactly the point. As we get into the various sections, we should have the regulations. I think Mr. Cordiano has stated it clearly and plainly.

Ms. E. J. Smith: I do not think that was ever agreed upon.

Mr. Gordon: I thank him for being so--

Mr. Reville: Candid.

Ms. E. J. Smith: I think Mr. Cordiano's statement is being misinterpreted. He knows and we know that the regulations may not even be written at the point he talks about.

Mr. Pierce: He was quite clear.

Ms. E. J. Smith: I do not think he means to imply that all the regulations will be available when we go through clause-by-clause.

Mr. Cordiano: I did not say that. I said that we agreed to go through each of the amendments at this time.

Ms. E. J. Smith: The amendments are available.

Mr. Cordiano: That is right.

Mr. Reville: It is all in there now.

Mr. Cordiano: Furthermore, amendments will be made with regard to the maintenance standards board. We are going through this process right now, and that is what we agreed to. I trust the regulations will be made available some time in the near future.

Mr. Chairman: I think it is appropriate that this question of regulations be raised in the committee from time to time because it reminds the senior staff of the Ministry of Housing who, I hope, communicate our dialogue to the minister and impress upon him that the committee feels quite strongly about this.

Mr. Gordon: Very strongly about it, Mr. Chairman, and I am glad you brought that out in just that manner. Let us make things very clear. You have here a bill in which you talk about the Rent Review Advisory Committee--

Ms. E. J. Smith: The RRAC people, too, because they will want to--

Mr. Gordon: I will talk to RRAC, too, but this is--

Ms. E. J. Smith: Between you and me.

Mr. Gordon: You are the government.

Ms. E. J. Smith: That is right.

Mr. Gordon: We talk to the same people as you do. We talk to RRAC, to the tenants and to the landlords. We know from conversations we have had with them that you are a long way down the road with regulations. We know that in many instances you have about 75 per cent of the regulations, so forget all this talk about, "we trust." Mr. Cordiano says, "You have to trust that we are going to take care of you." On the other hand, you say this is a very complex bill. If it were a simple bill, you would have regulations, but with a complex bill you do not. Here you have this agreement with these members of RRAC--

Mr. Epp: When you say that, you have to say that in a more reverent tone.

Mr. Gordon: Mr. Chairman, may I have the floor, please?

Mr. Chairman: Let Mr. Gordon finish, please.

Mr. Gordon: Here we have laypeople, and God love them, they have done a wonderful job, but they are still people and experts in their fields. You suggest to us that we, the legislators, have no right to see the regulations RRAC is putting together. You talk about delicate balance, you talk about the need for this bill and then you are going to hose us. Forget it.

Mr. Chairman: To be fair, I do not believe anybody suggested that.

Mr. Epp, do you want to conclude this debate?

Mr. Epp: I just wanted to say that Mr. Gordon is familiar--

Mr. Gordon: Be careful now. Mr. Cordiano got into trouble.

Mr. Epp: I will not get into trouble, so do not worry about it.

Mr. Gordon is very familiar with the procedures around Queen's Park and he is--

Interjection.

Mr. Epp: Yes, he is. He also knows that you should not--if you keep this in the proper perspective--put out your regulations before you complete your legislation. You have to put it in the proper sequence. How can you base your regulations on something when you do not have your legislation in place? It will take time. They need a lot of time to do this.

You have to have some patience. These are excellent people, civil servants and individuals--lay people, as you say--who are doing a lot of good work, and you do not want to stampede them into doing something that they cannot do in a short time. You need to have patience, Mr. Gordon. I know you are a patient and very understanding person.

Mr. Gordon: Surely they do not expect us to pass this bill without seeing the regulations.

Mr. Chairman: That is not for the chair to comment on.

Mr. Gordon: These people are starting to act as if they have a majority government. They do not.

Ms. E. J. Smith: Do you want us to get one, Mr. Gordon?

Mr. Gordon: I am glad you brought that up. Go ahead, Ms. Smith. If you want to talk to Mr. Nixon, it is fine by me.

Mr. Chairman: Ms. Smith, would you stop teasing the bears?

Mr. Gordon: I love elections. Did you know that? I am happiest when I am running. You call him and I will be happy.

Ms. E. J. Smith: Neither you nor I can call an election.

Mr. Chairman: Mr. Epp, you have had your say.

Is there anything further on subsection 88(3)? If not, we will move to subsections 88(4) and 88(5).

Mr. Pierce: Is there any point in proceeding with this bill if there is going to be an election?

Mr. Gordon: Yes, really, is there?

Mr. Chairman: Yes. There is.

Mr. Gordon: Is there any point in us staying between now and six o'clock?

Mr. Chairman: Yes, there is, Mr. Gordon.

Mr. Gordon: What is the point?

Mr. Chairman: The point is to explain the proposed amendments.

Mr. Gordon: We have been told it is none of our business and that if we want to know, they will hold an election.

Ms. E. J. Smith: Come on.

Mr. Epp: Oh, come on.

Mr. Gordon: That is how I read it.

Mr. Epp: That is not true.

Mr. Gordon: That is how it translates. I can read the paper.

Ms. E. J. Smith: If you cannot take a little teasing, Mr. Gordon, I am disappointed after all these years.

Mr. Gordon: Teasing?

Mr. Epp: Come on. As a seasoned, political, municipal politician?

Mr. Chairman: Would members get on the speaking list if they want to make a point? Mr. Reville, your hand was up.

Mr. Reville: Yes. Perhaps it would help this debate along--

Mr. Chairman: Yes. It needs help.

Mr. Reville: --because I am dying to talk about subsections 88(4) and 88(5). One of the reasons it will be useful to go through these amendments is that I believe the tenants, on their doorsteps, will want to know what type of bill the government has proposed, whether or not there is an election. I am sure Mr. Gordon will feel exactly the same way as I do. He will want to explain the bill to the tenants in his riding, so why do we not carry on?

Mr. Chairman: Is there anything on subsections 88(4) and 88(5)? Mr. Laverty, do you have an explanation on those?

Mr. Laverty: Yes, I do.

Mr. Chairman: Please proceed.

17:10

Mr. Laverty: On subsection 88(4), three separate changes are contemplated, all of a nature to clarify the intent of the original subsection. First, it makes it clear that in the case where there is a significant deterioration, the minister can order either all or a part of the rent increase, the chronically depressed component, to be taken back.

Second, the redraft indicates that, in an application, the minister is free to order the chronically depressed relief removed for either one unit or all units in the building. A circumstance in which the former might result is that if there were a deterioration that was unit-specific, the chronically depressed relief on that unit could be taken back. Where the entire building is suffering from a maintenance disorder, then all the units in the building could be affected by the removal of the relief.

The third change in subsection 88(4) is to make it explicit that as part of this process, the minister is to declare the maximum legal rent chargeable on the units involved, which was not explicitly stated in the original draft legislation.

The amendment to subsection 88(5) puts a time limit on the date of application for the removal of relief. In the way the initial section was drafted, had a landlord received chronically depressed relief and a full phase-in of that amount over a number of years at two per cent and arrived at the position where it was no longer depressed, an additional period of 10 years could occur, for example, and then a tenant could still make an application for removal of that chronically depressed relief. The intent of the provision was to allow for the removal of the relief during the phase-in period and during the period for which rent increase awards were being made. All the rent increase awards would be made by the time specified in the new subsection 88(5).

If a unit were to deteriorate significantly after that time, then the regular provisions of sections 14 and 15 regarding the maintenance board would apply to that unit. In addition, the provisions of section 72 and section 91 would also apply to any deterioration in maintenance.

Mr. Gordon: Can we expect any amendments from the RRAC with regard to chronically depressed rents?

Mr. Laverty: To my knowledge, no amendments have been approved by RRAC. The issue of chronically depressed rents is still being dealt with very actively by one of the RRAC subcommittees. It is difficult to forecast whether any additional recommendations will be forthcoming from that subcommittee, and if such recommendations do come forward, whether they will indicate the desirability of any amendments. At this time no specific amendments have been approved by the RRAC or by the government with regard to this section.

Mr. Reville: To refresh our memory, is this not one of the areas in which the government did not follow the RRAC recommendations?

Mr. Laverty: The government went beyond the RRAC recommendations. The RRAC made three recommendations, the first of which was that chronically depressed rents be defined as those below a threshold to be defined relative to the average of equivalent units in terms of quality and location. The second was that chronically depressed rents be eliminated by allowances of two per cent of revenue per year until the rent reaches a threshold index. The third, which was added by amendment, was that the deadline for applying for relief of chronically depressed rents be two years after proclamation.

As you are aware, section 88 adds a number of provisions beyond those that have been approved by the RRAC.

Ms. Hogan: I might add that there was another one, which you are probably aware of, Mr. Reville, which was that the other recommendations were tentative, pending confirmation of the assumptions on which the chronically depressed study had been done. I think you are right in the sense that this was an area where there was not agreement. We are still meeting to discuss it.

Mr. Reville: You have studied the York University report, I take it, and its addendum or subsequent report.

Ms. Hogan: Are you looking at me personally?

Mr. Reville: I am looking at the RRAC members. I did not mean to look at you in a personal way at all. I am trying to be very careful these days about everything I say and do, and even about the way I look.

Ms. E. J. Smith: You look wonderful today. I noticed you got your hair cut.

Mr. Reville: I was instructed to get my hair cut. That is the way these things work around here.

Do you agree with the findings of that York University report? As I recall, it said that between one per cent and two per cent of the units are affected and that about 28 per cent of the tenants in those units have an affordability problem.

Ms. Hogan: From my point of view, you should know that the final report came out just before I went away. I have been out of the country for a couple of weeks and just returned yesterday.

Mr. Reville: I hope you had a pleasant time.

Ms. Hogan: Yes, I did. I have not really studied the report, so I cannot give you an answer.

Mr. Reville: Mr. Bassel has, though.

Mr. Bassel: Yes, I have studied it.

Let me back up a little bit. As you can probably see from the RRAC report of April 18, number 3, until the ministry study on chronically depressed rents is completed and analysed, everything is tentative. The fact is that, although I may agree with the results of the study--I am now speaking as a landlord representative on RRAC--as Pat Laverty has said, section 88 is a government initiative only and has very little to do with what RRAC was working on.

I may agree with the study, which was done using an empirical 20 per cent to see what would happen with the 20 per cent. The RRAC subcommittee on chronically depressed rents is still hard at work, as Mary Hogan has said. In fact, we are meeting on Thursday at 7:30 p.m. to have a pretty hard negotiating session on chronically depressed rents. I do not know whether that helps you.

Mr. Reville: What it does, actually, is make me think we are going to see something different on chronically depressed rents.

Mr. Bassel: Not necessarily. I cannot speak for the government, obviously.

The Acting Chairman (Mr. Epp): Mr. Schwartz, do you have something to add to this? Do you want to take a seat there for a moment just for the purpose of responding?

Mr. Schwartz: Yes. I happen to be the chairman of the subcommittee on chronically depressed rents and I want to say a few things. Mr. Bassel has already said some of them. On Thursday at 7:30 p.m. we have another meeting scheduled on chronically depressed rents. The final outcome is difficult to predict. We hope we will be able to reach some agreement, but that remains to be seen.

The landlords who fall within this definition, whom I represent mainly, will be very unhappy if things remain the way they are right now, the way they are worded in Bill 51. As Mr. Bassel said, part of it had nothing to do with the RRAC agreement. The landlords affected by this will certainly be very unhappy if they remain in that position or if it affords them a very minimal improvement. After all, the problem has been recognized in the assured housing policy, and the government was committed to do something about it so we are looking forward to something meaningful.

17:20

Mr. Reville: If I may offer this to Mr. Schwartz, I have talked to a number of people who belong to your organization and some people who do not but who seem to be in the same position. They tell me that they are not at all happy with this section and that the two per cent will do them no good at all.

Mr. Schwartz: Certainly you could not expect the people who are directly affected by this problem--

Mr. Reville: I told them to call the government right away.

The Acting Chairman: You did the right thing.

Mr. Reville: I did.

Mr. Gordon: Once you have finished your deliberations, we would like to see that report. It would be very interesting to read it over.

The Acting Chairman: That is after Thursday you are talking about.

Mr. Gordon: Once you are ready to have it released.

Mr. Schwartz: Are you talking about the report of York University?

Mr. Gordon: No, the chronically depressed rents. I understand you are putting together a report. Is that not correct?

The Acting Chairman: It is a subcommittee report and that would go through the committee itself, Mr. Gordon, rather than come directly through here. It is part of their--

Mr. Gordon: We would like to see that. Would you let them speak for themselves, Mr. Chairman.

Mr. Bassel: Just to clarify the process, we are meeting on Thursday, but that does not mean we will complete our work on Thursday.

Mr. Gordon: No, of course not.

Mr. Bassel: After we finish the work of the subcommittee, it has to go to the full RRAC as well, but I do not see any reason why you could not see the report.

Mr. Schwartz: If there is anything.

The Acting Chairman: Are there any other questions on subsection 88(5)? If not, shall we proceed to subsection 90(1), Mr. Laverty?

Mr. Laverty: In the initial draft of the act, the ministry would initiate a cost-no-longer-borne procedure on financing costs whenever, in the opinion of the minister, financing costs were lower by two per cent of interest rate. This two per cent threshold, was a matter on which RRAC had not advised us prior to the initial printing of section 51. There had been a good deal of discussion as to there being some threshold to trigger the ministry application process subsequent to the April 18 agreement and subsequent to the introduction of the initial draft of Bill 51.

The RRAC gave us some additional direction, and the direction they gave us was to lower the threshold to one per cent so that whenever, in the minister's judgement, the rate may be lower by one percentage point, a ministry-initiated, cost-no-longer-borne procedure would be initiated. This is to conform with the subsequent direction that the advisory committee has given us.

The Acting Chairman: Are there any questions? If not, we will proceed to subsection 90(3).

Mr. Laverty: In the initial act it was not clear what the earliest date might be that the rent reduction would take effect. In the amended version, it is made clear that the date of the rent reduction cannot be earlier than the date of the actual cost decrease.

The Acting Chairman: Subsection 91(1).

Mr. Laverty: In the initial draft of the act there is a reference to making an application, in this particular case an application by a tenant disputing an intended rent increase, but there was no reference in this section to that application being in the prescribed form, that is, the form approved by regulation.

The purpose of the amendment is to make it clear that it should be in the prescribed form. The purpose of that is to ensure that these applications are made in a standard format which will improve the administration of these applications and also assist in reducing the possible confusion of other parties to having applications in a variety of forms.

The Acting Chairman: Subsection 91(5).

Mr. Laverty: This is a technical amendment. In the event that the initial award by rent review was for no increase, for example, if a deterioration in maintenance claimed by the tenant was sufficient to result in a zero per cent increase or no increase, the way the initial section read the landlord could then serve a new notice of rent increase which could take effect 90 days afterwards and get an increase in that time frame. The amendment means that if the rent review awards no rent increase as a result of the tenant application, the landlord cannot seek any rent increase for an additional 12-month period.

The Acting Chairman: Subsection 92(2).

Mr. Laverty: The reference to an application in the prescribed form is similar to the application in subsection 91(1), to ensure that the application is made according to the regulated form for purposes of consistency and for the convenience of the various parties.

The second amendment ensures that the current tenant cannot get a rent rebate which is owed to a previous tenant. If the existing tenant has been in the unit for only six months but the illegality has gone back for 18 months, the tenant can only claim for the amount of illegal rent he has paid and cannot collect the amount of illegal rent the previous tenant paid. The previous tenant has his own right to go to rent review to recover the amounts owed to him.

Mr. Pierce: What process does the previous tenant have to go through in order to recover the illegal rent?

Mr. Laverty: He can simply make an application for that amount.

The Acting Chairman: On the prescribed form?

Mr. Laverty: On the prescribed form.

Mr. Pierce: Is he given a prescription by the minister?

What onus, if any, is on the landlord to notify the previous tenant that there have been illegal rents charged and that he is entitled to a refund? How does the previous tenant know that the action is even in the process?

Mr. Reville: He probably reads the Toronto Sun.

Mr. Pierce: Does he call the minister to see how things are going?

Mr. Laverty: I would best refer to legal counsel on that question.

Ms. Stratford: In fact, the landlord is under no onus under this section to notify previous tenants that a current tenant is disputing the lawful maximum rent. Chances are very good that the current tenant, in attempting to get evidence to prove his own case, will seek out previous tenants, thereby putting them on the alert that a claim is in the offing. They might then be inspired to make their own application.

17:30

Mr. Pierce: There is really nothing in the bill. It is just by chance and the will of God that the previous tenant finds out that the existing tenant has been successful in his charge of having the rent recognized as being illegal and that the previous tenant may have a case for going after the same thing.

Mr. Laverty: There may be some practical difficulties if you were to require the landlord to contact previous tenants. It may be very difficult in a number of cases for him to perform that, given that tenants do not indefinitely update landlords on their current whereabouts.

Mr. Pierce: Were there questions to the RRAC by tenant groups that had some form of approach to the bill to cover that area, so that previous tenants could recover illegal rents or somehow be notified that illegal rents were charged?

Ms. Hogan: My recollection is there was not a discussion about that. I guess it is more from a practical point of view than anything else. As Mr. Laverty and Ms. Stratford said, it is very difficult to locate previous tenants. I know from experience, having tried to get hold of some of them.

Mr. Pierce: Let me go a step beyond that. What is the statute of limitations in respect to a tenant coming back? Say a tenant finds out five years from now he was charged illegal rent and the existing tenant was successful in getting the rent rolled back and got a refund. How long can a previous tenant go without making that application and be successful?

Ms. Stratford: In section 63 of the bill, apart from the specialized provisions for registration and the limitations that existed when the landlord had filed the statement, rebates in respect of a certain period are not recoverable. Apart from that, under subsection 63(2), there is a six-year limitation period placed on the recovery of excess rents, so the tenant would have six years to make the claim from the time he first paid the rent.

Mr. Pierce: Is that under section 63?

Ms. Stratford: It is subsection 63(2).

Mr. Pierce: That does not really address the question I raised, which is one of where a tenant moves in and six months after moving in is successful in having the rents rolled back because they were illegal. The previous tenant has gone out of the province, for example, and comes back five years later and finds those rents were illegal. Is that tenant still entitled to a rebate on his illegal rent?

Ms. Stratford: This section says the tenant has six years in which to claim that amount. He can go back six years. In your example he would be going back five years, so those amounts would be recoverable.

Mr. Pierce: That is all tenants, not the existing tenant.

Ms. Stratford: Each tenant would have his own limitation period, based on when he first paid his excess rent.

The Acting Chairman: I think the question is whether it is a total of six years or whether each tenant has a maximum of six years.

Ms. Stratford: Each tenant has a personal claim and that claim has a six-year limitation period.

Ms. E. J. Smith: Is that six years from the last or from the first? It would be from the last, would it not?

Ms. Stratford: As a tenant, if I made an application today I would be able to go back six years for my claim.

Ms. E. J. Smith: From your last payment.

Ms. Stratford: Yes.

Ms. E. J. Smith: You said first. I just wanted to correct that.

Mr. Pierce: That leads me to another question. A new landlord takes over three years down the road. Is he responsible for the illegal rents charged by the previous landlord to the tenant who left five years ago?

Ms. Stratford: The interpretation we have, and you can tell me if this answers your question, is that the landlord who collects the excess rents is the landlord who is responsible for paying them back.

Mr. Pierce: So the landlord who has sold the building is still responsible for the excess rents, if you can find him.

Ms. Stratford: If he collected excess rents, he is liable for repaying them to the tenant who paid them.

Mr. Pierce: Who is responsible for finding the previous landlord for the tenant to collect his rent?

Ms. Stratford: The onus of locating that landlord for purposes of service is on the tenant, although there is provision for obtaining directions for service if one is unsure of how to serve someone.

The Acting Chairman: But not for the purposes of investigating where that person is?

Mr. Pierce: No. In this case, the tenant is out there on his own.

The Acting Chairman: Yes.

Ms. Stratford: The tenant has the responsibility somehow to effect service. There is provision for giving directions. If the tenant does not know of an address, for example, there are other methods of service that could be implemented, substitutional service by advertisement and so on. There are other methods. In the end, the tenant would have to make an effort to advise the landlord there were claims being made.

Mr. Bernier: What is the magic for the six-year limitation? Is that the statutory limit or was that agreed on with RRAC?

Mr. Pierce: I thought the statute of limitations was seven years.

Ms. Stratford: The Limitations Act sets out a number of different limitation periods for various kinds of claims under the common law. Under the Residential Tenancies Act, no specific limitation period was set out for claims for excess rents. The Residential Tenancy Commission adopted the interpretation that the six-year limitation period under the Limitations Act would apply. In Bill 51, we have attempted to be clear in the bill itself and say that the six-year limitation period will apply. In our case, it is a statutory limit imposed by the bill itself, as opposed to having to go to the general law--the Limitations Act--and try to fit the claim into one of the categories there.

Mr. Bernier: Do you really think the tenant will go back six years?

Ms. Stratford: It would be in his interest to do so if he had paid excess rents that far back.

Mr. Bernier: How do landlords feel about that six-year limitation?

The Acting Chairman: Mr. Bassel, do you want to respond to this?

Mr. Bassel: From an administrative point of view, it presents some difficulties.

Mr. Bernier: It is a nightmare.

Mr. Bassel: It is a nightmare. I think the payback is limited to August 1985. Correct me if I am wrong.

Mr. Laverty: The reference to August 1985 is with respect to circumstances in which the landlord has registered within a specified period. The six years will apply in the future. For example, if you charge an illegal rent in 1987--not that you would--your tenant would have until 1993 to bring an action against you. When we are looking into the future, the six years will become important to all landlords..

Mr. Bernier: This really enshrines rent control for ever.

Mr. Laverty: I do not think it would be appropriate for me to comment.

Ms. E. J. Smith: It is accomplished in common law, the law that is in other statutes, is it not? Is that not what you said?

Ms. Stratford: The six-year limitation, yes.

Ms. E. J. Smith: It is not anything new or wonderful.

Mr. Reville: It certainly is not.

Mr. Pierce: It just adds to the complexity of the bill.

Ms. E. J. Smith: If it said four years, does that make the bill simpler?

Mr. Reville: No. It makes it more outrageous--

Ms. E. J. Smith: Six years is something they have taken because it was used by habit under the Landlord and Tenant Act. It is a logical figure to use.

Mr. Reville: It relates to the common law when people could remember for only six years. Now we have a better diet and we can remember a lot longer.

Ms. E. J. Smith: You can try an amendment.

The Acting Chairman: If there are no further questions, we will go on to subsection 92(3).

Mr. Laverty: In 92(3), there is an explicit reference made to part XI of the Residential Tenancies Act, which is added. Part XI is the section that governs the procedures on rent review and the change to subsection 3 parallels the wording in subsection 92(2) of this bill.

17:40

The Acting Chairman: Section 93.

Mr. Laverty: Section 93 deals with circumstances in which there is ongoing and deliberate neglect in maintenance of a residential complex and the power of the minister to disallow all or part of the capital expenditure amount for the purpose of cost pass-through. The addition is to insert the words "are substantial and" after "expenditures" in the fifth line, so that it makes it clear we are talking about substantial capital expenditures. This change has been inserted, so that the bill will correspond with recommendation 12 on page 16 of the RRAC agreement, which refers to substantial capital improvements.

Mr. Pierce: Does the change in the wording of section 93 not change the intent of section 93? It is no longer because of deliberate neglect, which may only be in respect of costs of \$500, as opposed to "substantial," which means dollars and cents.

Mr. Laverty: The qualifier on substantial capital expenditures is intended to make sure that where the capital expenditure involved is of a minor nature, it would not give rise to the provisions of that section. The definition of the term "substantial" is one of the areas in which the advisory committee has not yet given us a final position. It is not one on which I can further inform you at this time.

Mr. Pierce: One can do a number of things within a rental unit that constitute deliberate neglect but do not constitute substantial dollars. A

tenant could be very upset about the condition of his building; yet it does not require a lot of money to rectify the problems.

Mr. Laverty: Until RRAC has finished advising us, it would be premature for me to indicate that the only definition of "substantial" would refer to an actual expenditure amount. There are some definitions of "substantial" that are before us now that do refer to amounts. There is another possible definition that would try to define "substantial" in terms of the impact on the tenant. It would be premature for me to give an indication of where RRAC will go with that one. There are two philosophies as to how one might go about determining what "substantial" intends.

Mr. Pierce: Are we to assume then that "substantial" will be part of the definitions of the bill or the regulations?

Mr. Laverty: This will probably be done in regulations. The reason for that is that the word "substantial" appears in a number of sections and it would not be appropriate in all cases to have the same definition.

Mr. Pierce: If you are going to use a word throughout a bill, I would have to think that the definition of what the word represents has to be clear. It cannot mean one thing in one clause and another thing in another clause. I do not understand that sort of thinking.

Mr. Laverty: What is substantial in one case may not be substantial in another.

Mr. Pierce: Then perhaps another word should be used.

Mr. Laverty: I suppose we could invent different words for each section.

Mr. Pierce: Mr. Chairman, there are other people who would like to respond to that question.

Mr. Bassel: Perhaps I can help you a bit. This was something the tenants put forward. I think the thrust of section 93 is the situation where a landlord deliberately does not do on an ongoing basis the things he should be doing, and it is shown that he has to. I can give you a couple examples. One is if he has not maintained the boilers on an annual basis and done the regular work that should be done and it can be shown that he has to replace the boilers because he has not done those things. Another example: we all know what is happening with garages right now and the cost of fixing garages. If the problem is identified at an early date, the cost of doing the repairs there are not minimal but not as much as it would be if one ignored doing the repairs earlier.

In the case where you identify and do the work, and do not deliberately neglect doing it just so you will not have to lay out the money, you may be able to fix the garage for \$50,000, but if you deliberately do not do it and it means chopping out the whole garage and almost starting all over, that is a tremendous cost. I think what the tenants were driving at was that there have been cases of this sort of thing happening. They think the landlord should be penalized if he deliberately or negligently neglects to spend the money and just does not do things, figuring that eventually he will do it as a capital improvement, deferring it as much as he can. Perhaps he thinks he is going to sell the building in the meantime and it will be somebody else's problem.

I think that is the thrust of this section. The reason for the word "substantial" is that it is a complicated system anyway, as we have all heard. If we start talking about \$500 items and \$1,000 items, we are going to block up the system. I am not suggesting there will be frivolous actions but there might be, and the purpose is to avoid that sort of thing happening.

Ms. Hogan: From the tenants' point of view, they are concerned about those capital expenditures that have an impact, that add something to their rents. You are looking at a large expenditure there by the time you amortize it and then translate it into a monthly amount. Obviously, we are still having some difficulty defining what "substantial" means, but that is our concern. Only the larger ones will have an impact on rents.

Mr. Pierce: There were many references to the definition or wording by different groups. Being required to pay an eight per cent rent increase is a substantial increase to somebody on a limited income.

Ms. Hogan: One of the things we are looking at when looking to define "substantial" is how to do it. Of course, one of the mechanisms, as Mr. Laverty said, is the impact on tenants. This would take into account the amount of rent they would pay.

Mr. Reville: I do not find these explanations all that helpful. What I think the amendment does is add two preconditions. One is that deliberate neglect must be found and the other is that the expenditures must be found to be substantial, whatever that means. It strikes me that in the unlikely event deliberate neglect can be substantiated, is not any pass-through a capital cost in respect of deliberate neglect unacceptable? It seems to me it is not a question of substantial. Even if it is only a \$1 increase to my rent, why should I pay if the cost is as a result of deliberate neglect by the landlord?

Ms. Hogan: Perhaps we will get there in our discussions.

Mr. Reville: I certainly urge you to get there.

Ms. Hogan: If something is going to have that much of an impact and if it is substantial, you have to realize that by the time an expenditure is amortized over the lifetime and then calculated on a monthly basis, you may find the totality of the expenditure is not that large. It looks as if I have just confused you.

17:50

Mr. Reville: No. You have not confused me. Even a penny may relate to deliberate neglect, seeing that you have put such an onerous proof in this section already. Deliberate neglect is difficult to prove.

Ms. Hogan: I guess one of the problems when we look at this and talk about neglect is how we get a building up to standard and how we allow the landlord to get that. No one wants a building to continue to be below standard.

Mr. Reville: I agree.

Ms. Hogan: It may not make sense to penalize a landlord for something he has deliberately not done or whatever and therefore cause him more difficulty in getting funds to bring the building up to standard. The constant dilemma we face is to get the buildings up to standard while at the

same time giving the landlord the ability to get the money to do that and also not penalizing the tenants in any way. It is a very difficult line to draw.

Mr. Reville: In the circumstance, which is not beyond the realm of possibility, that the plumbing in unit 404 has been leaking into unit 403 for many years, succeeding tenants have complained about this to the landlord and nothing has been done and now the structure of the building is no longer viable and joists have to be replaced, which will be a significant capital cost, why should the tenants pay for the results of that kind of neglect?

Ms. Hogan: They probably should not.

Mr. Reville: These costs may indeed be substantial, particularly if it is a slab building and one has to take rerod out. I have been involved in some projects where you chop out concrete. It is very expensive.

Ms. Hogan: In that situation, it would be covered.

Mr. Bassel: Those words were added to make it conform to the Rent Review Advisory Committee agreement. All the things I am hearing today from Mr. Reville and Mr. Pierce about what is substantial were argued. The inclusion of those words in the RRAC agreement was argued long and hard by both sides, and the result was that it was put in this way. I guess this amendment is one that makes section 93 conform to the RRAC agreement.

I must also reinforce what I said before. I am not discounting the fact that an additional \$1 in rent may be onerous for a tenant, because it can be. At the same time, one of the things we were trying to do when we designed this bill was reverse some of the deterioration that had occurred in the housing stock. If we make section 93 too onerous on landlords, it will provide a substantial disincentive for upgrading buildings. Literally billions of dollars' worth of deterioration has taken place. I think one of the objects of the tenants in agreeing to make--Ms. Hogan will correct me if I am wrong--this provision not too onerous was to encourage landlords to bring their buildings back up to a reasonable standard.

Ms. E. J. Smith: I think Mr. Bassel has basically answered my question. "Substantial" is a difficult word. I think it does have to be used somewhat differently in different areas. Substantial maintenance and substantial capital improvements obviously need to be somewhat differently defined in regulations. In some of the examples we are looking at, it would be helpful if substantial maintenance in itself would correct some of the problems; that is, if we had substantial maintenance on these minor items, they would not overlap with substantial capital correction. I hope, as we go through it on a clause-by-clause basis, we will deal with the maintenance standards before we hit the capital and may have looked at that.

Mr. Reville: If I may just reflect, it does take some of the muscle out of the brave talk in sections 14 and 15.

Ms. E. J. Smith: One of the very difficult things for anybody who has worked with government regulations in any act is that there is a difficulty in defining when maintenance becomes capital, and I suppose there always will be. It is one of those. I do not know that you ever get a perfect answer to when you are repairing a roof under a standard maintenance clause and when it is a capital expense. There is no--

Mr. Pierce: There is no difficulty when you are dealing with the accountants in the Ministry of Revenue. They can determine pretty fast what is maintenance and what is capital. Section 93, as I understand it, and I am still a little confused by the additional wording of "are substantial," gives the minister the right to refuse or to recognize all parts of the capital expenditures or for those capital expenditures claimed by a landlord where, in the opinion of the minister, such expenditures are because of deliberate neglect.

Mr. Bassel: That is correct.

Mr. Pierce: I fail to see the reason for the additional words, "are substantial." I somehow have lost track of why that wording has been added to that particular clause. This clause gives the minister the right to say: "I am sorry, it is not acceptable. See you." It has nothing to do with cost, whether it is substantial or not substantial. You do not have to define the word "substantial" for this particular clause. But if you had deliberate neglect, what difference does it make whether it is substantial or whether it is not substantial? Neglect is neglect.

Mr. Bassel: I think, Mr. Pierce, if I can respond to that, there was a negotiated settlement. That is what we settled on.

Mr. Bernier: A deal was made.

Mr. Bassel: A deal was made.

Mr. Pierce: In clause-by-clause discussion, it is all right but this is an amendment to that clause and we are discussing amendments.

Ms. E.J. Smith: We are discovering what they meant by it, not whether it was a good amendment or not.

Mr. Bernier: That proves there was a deal.

Mr. Pierce: I still have to have some definition of the background and the reasoning to having the amendment. That is what I am asking for.

Mr. Bassel: The reason for the amendment was the landlords looked at section 93 and said: "Hey, we negotiated 'substantial' in the RRAC agreement but you left it out of section 93. What are you doing to us?" Then they put it back in, to make it conform to RRAC, because that is the deal we made with the tenants.

Mr. Pierce: That is the best explanation I have heard of this clause yet. Thank you very much, sir.

Mr. Bassel: You are welcome.

Mr. Chairman: Is there anything else on section 93? If not, subsection 94(3).

Mr. Laverty: In subsection 94(3), we have taken out the word "places" in the phrase "parking places" and substituted the word "spaces."

Interjections

Mr. Reville: Can we have an overhead on that?

Mr. Laverty: This has been advanced so that subsections 94(3) and 94(4) will both refer to parking spaces, so that the terminology can be consistent in the section and we can avoid legal and metaphysical argument as to whether or not there is a difference between a parking space and a parking place.

Mr. Reville: The former commissioner of planning for the city of Toronto said upon his hiring, "I am interested in the space between ideas, not the place between ideas." Think about it. That is very metaphysical.

Mr. Chairman: Is there anything else on subsection 94(3)?

Ms. E. J. Smith: On the basis of that, we have to refer to them as places.

Mr. Chairman: Subsection 94(5)?

Mr. Reville: There is no space at all.

Sorry. Can we go home now?

Mr. Chairman: Is that the wish of the committee?

Mr. Reville: The only one I understood today was that one--space.

Mr. Chairman: There has been an expressed wish to adjourn. We are adjourned until Wednesday at 3:30 p.m.

The committee adjourned at 6:02 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
WEDNESDAY, OCTOBER 29, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsvview L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, E. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Substitutions:

Davis, W. C. (Scarborough Centre PC) for Mr. Bernier
Knight, D. S. (Halton-Burlington L) for Ms. Caplan

Also taking part:

McClellan, R. A. (Bellwoods NDP)

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Laverty, P., Director, Rent Review Policy Branch, Rent Review Division
Stratford, L. A., Senior Solicitor, Rent Review Division
Peters, F. H., Executive Director, Rent Review Division

From the Rent Review Advisory Committee:

Schwartz, J.
Robinson, L.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, October 29, 1986

The committee met at 3:54 p.m. in room 151.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The committee will come to order. Before we begin, we have distributed to members a letter from McQuesten Legal and Community Services. Mr. Cassidy, the staff lawyer who writes the letter, is asking the committee to get involved in a matter which I personally doubt we should, although I invite members to read the letter and think about it. There is also a large package of documentation which is in the clerk's office and which contains financial information, personal information and so forth. I did not distribute that. If any members of the committee want it, they can feel free to see Todd Decker and have a look at it. My only view is that we should not get involved.

Mr. Reville: I understand the chairman's caution in this regard, but McQuesten is involved and is sharing with us some of its concerns about the way the current rent review process works or does not work. That is germane to our effort here in trying to design a new system of rent review. It might be appropriate if the members of the committee had a careful look at what is contained in this document. Perhaps at some later time they might want a discussion about it. All I am doing is requesting that it not be ruled out of the question now.

Mr. Chairman: No, not at all.

Mr. Gordon: Since this is the first time I have seen this letter--

Mr. Reville: As have we all.

Mr. Gordon: Yes--I would want to read it and digest it. Any ruling you make at this moment is satisfactory. In other words, we are not going to deal with it now. We have to see whether it is germane to our deliberations. If that is your ruling, I concur with it.

Mr. Chairman: Okay. There will be no definitive decision at this point. If members want to raise it, please feel free to do so in the future.

Mr. Gordon: Perhaps I can make a point. We have been accused in this committee of somehow or other filibustering or attempting to slow down the process. I hardly think that is the case. I would like to find out whether the current Liberal government is going to stop filibustering with regard to equal pay for work of equal value in the committee that is meeting right now in this House. I understand nothing is going on, and I wonder whether they are ever going to stop these obstructionist tactics. That is my only comment, and I am ready to carry on.

Mr. Chairman: Thank you, Mr. Gordon; you are seeking information by that point.

When we last met, we were dealing with subsection 94(5) and the proposed amendment from the ministry. By the way, we have with us today from the Rent Review Advisory Committee, Ms. Leslie Röbinson and Mr. Jan Schwartz. We welcome you to the committee.

Mr. Laverty: On subsection 94(5), there are agreements in subsection 94(4) for the addition or deletion of a separately charged service. In the initial draft of the legislation, we referred to the possibility of a landlord coercing a tenant into accepting the addition or deletion of a service. When the members of the advisory committee reviewed that section, certain individuals objected to the thought that only landlords could be involved in coercion and that it is possible that coercion could be practised by a tenant and therefore we should reword the section to be more neutral. We have done so by simply referring to some form of coercion. It will now cover coercion whether it is practised either by a landlord or by a tenant in agreements regarding the separately charged service.

Do you want me to do subsection 6 now, or do you want to take questions on subsection 5?

16:00

Mr. Chairman: Are there any questions on subsection 94(5)?

Ms. E. J. Smith: It is admirable.

Mr. Reville: Are you making a political speech?

Mr. Gordon: Are you baiting the bears?

Ms. E. J. Smith: I did not know there were any bears here, but if there are, maybe I am. Who knows?

Mr. Chairman: There are no questions on subsection 94(5), Mr. Laverty; so we will go on to subsection 6.

Mr. Laverty: Subsection 94(6) is a new subsection, and it was added by way of clarification. If we take a case in which the lease is renewed every year in January, and in January of a given year an individual has one car and in July of the year adds a second car, it makes it clear that the landlord can charge an additional parking space rent for the second car in July, without violating section 67, which states that you can have only one rent increase in a year.

What is happening here is that the tenant is renting an additional parking space and is paying accordingly for that extra space. It does not mean the landlord is free to raise a parking space charge more than once a year, however. If the tenant continues to have only one parking space in the example, the landlord cannot arbitrarily increase the rent for a second time in July of the year after increasing it in January of the year. That is the purpose of the new subsection 6, largely to clarify the intent of the section.

Ms. E. J. Smith: This is a minor point that has been raised by other people in other cases, but why on earth do you not say that here? It seems so simple to say, "An increase in rent charged in accordance with this section does not constitute an increase of the annual permitted increase," so they do not have to look back to section 67. I do not know. I am speaking as a nonlawyer.

Mr. Laverty: It is a matter of legal draftsmanship. I take it that the reason the cross-references are by section is for economy of expression. You would have to express fully and completely the meaning of section 67 again were you to drop the simple cross-reference. You would have to incorporate the wording of section 67 into the subsection.

Ms. E. J. Smith: Section 67 is very short, but I bow to your wisdom.

Mr. Gordon: Say you give up.

Ms. E. J. Smith: I give up. I will hire a lawyer.

Mr. Chairman: No more heretical suggestions.

Mr. Gordon: No more interruptions.

Mr. Laverty: However, I note the ministry will be expending a considerable effort on its educational program to help people overcome the obstacles of legal drafting.

Mr. Chairman: Will you send any material you draft for educational purposes to the Law Society of Upper Canada?

Mr. Laverty: Most assuredly.

Mr. Chairman: Thank God. Anything else on subsection 94(6)?

Mr. Reville: It is nice to be able to agree with Mrs. Smith sometimes. How does this section prevent an increase in charges in respect of a parking space more than once a year?

Mr. Laverty: An increase in the charge more than once a year would be a violation of section 67, because that is not an increase in accordance with this section.

Mr. Reville: That is the question I am asking you, and what you have answered me is "because." I want to see where it says the car is parked.

Mr. Laverty: I will turn it over to legal counsel, who I hope will affirm my "because."

Ms. Stratford: Mr. Reville, subsection 94(4) is the provision which says that, notwithstanding anything else, the landlord and tenant can agree that a charge can be imposed for an additional parking space. Subsection 94(6) says that if you increase the rent in accordance with this section--in other words, for an additional space--that will not constitute an increase that will violate section 67.

If your question simply relates to increasing the present charge for the current space, then that is increasing rent not in accordance with the section; therefore, subsection 94(6) would not apply.

Mr. Reville: Under the way subsection 94(4) operates, suppose I have been used to having a parking space and do not pay an additional charge for it, and the landlord says that as of tomorrow that parking space costs \$20 a month. In this section, it says the rent shall be decreased if that happened. Is that circumstance covered, or am I going to be told that if I do not want the parking space, I do not have to pay the money?

Mr. Laverty: Subsection 4 relates to where the landlord provides any additional parking spaces or discontinues the provision of any parking spaces. There has to be a real allocation of either more parking spaces or fewer parking spaces. It is not a matter of changing the price for a given parking space; there has to be an increase or decrease in the number of spaces provided.

Mr. Reville: It does mention that you have to agree to this in some way.

Mr. Laverty: Yes.

Mr. Reville: You come to me and say you are going to take my parking space away, and I say you are not.

Mr. Laverty: It would strike me that there was no agreement in that case.

Mr. Reville: What happens then? Nothing? Do I have the parking space and pay the same rate?

Mr. Laverty: If you had a disagreement, that would wind up--

Mr. Reville: In the Supreme Court of Canada.

Mr. Laverty: It would be a matter that could be referred to the minister under section 13, would it not?

Ms. Stratford: That may be.

Mr. Laverty: That would be one of the other prescribed matters that could be referred to the minister. That is one of the points we have picked up in the drafting of regulations.

Mr. Reville: Could I ask a question of Ms. Robinson, who in the past has had to deal with the diminishing of services for the same money? Ms. Robinson, are you content that this section deals with the problem of people all of a sudden discovering that something that was in their rent before is now going to be charged for in addition or that you will not get raises in parking fees more than once a year? Are all those matters taken care of to your satisfaction?

Ms. Robinson: My understanding of the section is that for a charge to be added on, (a) the landlord and tenant have to have an agreement and (b) it has to be an additional service. The only question I am unsure about is who determines how much that charge is. If you get a car and you want a parking space, you agree to pay an additional charge; but how do you determine how much that charge will be? I do not know.

Mr. Reville: Has it not been your experience that sometimes landlords get around rent review by increasing the charges for these types of things?

Ms. Robinson: They are in breach of the law when they do that. They do it, but if rent review legislation were applied, tenants would be able to receive back any extra moneys they had paid.

Mr. Reville: Why do they not get their money back in most cases? Because they do not know about the--

Ms. Robinson: In my experience, if they apply, they get the money back.

Mr. Reville: I see; you have to apply.

Mr. Chairman: Is there anything else on subsection 94(6)? We will go on to section 95.

16:10

Mr. Laverty: There are basically two kinds of changes in section 95. At the end of the section there is a reference to the Residential Premises Rent Review Act and to the Residential Tenancies Act, whereas the original legislation referred to only the Residential Rent Regulation Act.

This extends the scope of the period that will be covered by section 95. If, for example, the building had last been rented in 1985 and had then been vacant for two years, the period covered by the Residential Tenancies Act would also be included in computing the percentage of rent increases for the purposes of setting the rent on a unit that had been vacant or otherwise not rented.

The second kind of change is the statement at the beginning of section 95, "has been rented at any time on or after the 29th day of July, 1975." That date was the effective date of the original rent review program. It clarifies the situation of a unit that was rented prior to rent review, never rented under the rent review program and now being brought back to rental use. Those units will be covered under section 96 as new units rather than as units that had been vacant. This in fact confirms the existing practice of rent review and simply makes it somewhat more explicit.

Mr. Gordon: To make sure I am clear on what we are talking about here, what you are saying in section 95 is that if you did not rent it for a number of months or a year or two or three, when you do rent it you will get the rent you could have charged if you had rented it for those months or those years?

Mr. Laverty: Yes. Essentially you would have gotten the previous rent increase either by guideline increases or, if the entire building had been to rent review, rent review might have set a new rent on that unit. You would get the benefit of that.

Mr. Gordon: You are not penalized?

Mr. Laverty: No. You would not be penalized for having it in nonrental use during that period.

Mr. Gordon: How does section 96 differ from that?

Mr. Laverty: If a unit had been rented prior to rent review but not under rent review, instead of dealing with it as a vacant unit under the rules in section 95, you would be dealing with it as a new unit under the rules of section 96, which we will come to in a moment.

Mr. Gordon: You are talking about a unit that was not rented prior to rent review?

Mr. Laverty: Let us take an example of a unit that was rented in 1970 for one year and not rented again until 1987. For the purposes of setting

the rent in 1987, we would treat it as a new unit, and the first rent charged on that unit would be a legal rent set according to market conditions.

Mr. Gordon: Is that not a rather farfetched situation? Is that a common experience across the province.

Mr. Laverty: There have been cases in the past where units had been in rental use some years prior to rent review and then were rented again. Here we are talking mostly about low-density units, which can move in and out of the rental market from time to time, although even in a larger building you could conceivably have a unit that had been continuously occupied by a superintendent who is not being charged rent, for example, or you could have a building owner in a low-rise building who has lived in the building for a period of years and then decides not to or the building passes into other hands and that unit becomes rental. It is a matter of saying, "Where do we begin in setting the rent on that unit?"

Mr. Gordon: The example makes clear the point you were making on section 96, particularly when you start talking about a landlord or a custodian who has lived in a rent-free unit. I gather that is what this clause is to cover.

Mr. Laverty: It covers that. It also covers units that are vacant for a period, but it is very unlikely you would have a unit that had been vacant ever since the beginning of rent review. You could have a unit, certainly in some markets, that would be vacant for more than year, and we would then have the problem of setting the rent on that unit, which section 95 addresses.

Mr. Gordon: Section 95 addresses what you were just referring to. Besides the owner or custodian, can you think of anyone else who would be involved in a unit that was left empty like that?

Mr. Laverty: We are talking about a unit where--

Mr. Gordon: It seems Mr. Schwartz wants to say something. Maybe we will let the Rent Review Advisory Committee get involved.

Mr. Schwartz: It could be someone such as a superintendent or a manager.

Mr. Gordon: These are the only types of occupations you can think of that might create that sort of situation; is that correct?

Mr. Schwartz: Of that kind.

Mr. Laverty: I can give you another one. You could have a unit that was at one time rented, converted into a party unit and then reconverted into a rental unit.

Mr. Gordon: I missed that. I must have worked in the mines for too long; my hearing is going.

Mr. Laverty: You could have a unit that was rented at one time--

Mr. Gordon: It is true. I worked on the diamond drills at the 6,800-foot level when I was only 16. It was so noisy there my ears rang for a month. That was before they had the big ear protectors. That was back in the more primitive days. I hate to admit I am getting to that age, but I must.

Mr. Schwartz: It could be also a situation where certain units--

Mr. Gordon: I am not boring you, am I, Mr. Schwartz?

Mr. Schwartz: Never. You are always exciting.

Mr. Gordon: I am glad to hear that, especially from you. Carry on.

Mr. Schwartz: There could be various scenarios. For instance, a unit, or possibly more than one, might have been used by a certain owner for some purposes other than residential, maybe a studio or some kind of office. A new owner who has acquired the building may have reverted it to residential use after a number years. It could happen.

Mr. Gordon: I guess the RRAC spent so long poring over this bill we are getting down to some of the very fine, nitty-gritty points. That means we will not have too many new amendments being put forth by the government. Dr. Laverty, you were going to make a few points.

Mr. Laverty: I think the nature of the--

Mr. Gordon: Do you want me to respond?

Mr. Chairman: No. You would not want to interrupt Mr. Laverty again, would you?

Mr. Gordon: No, I do not. I apologize.

Mr. Laverty: The nature of my example was similar to what Mr. Schwartz has referred to.

Mr. Reville: In terms of section 95, Mr. Laverty, is that not the way this bill deals with a fairly common practice of the past, in which a unit was taken out of service so it either de facto or de jure was taken out of rent control as well?

Mr. Laverty: I believe you are referring to the practice under section 128 of the current legislation, "Where a rental unit that has not been rented during the previous 12-month period then becomes rented, the rent then charged shall form the basis for determining whether subsequent rent increases exceed the percentage" and so on, and perhaps more specifically the application of rent review guideline 9.

16:20

Mr. Reville: Yes, that is it. What happened was the unit would become vacant. Somebody would leave or be evicted. There would be a space of time. A prospective tenant would show up. The rent is now somewhat higher than it was before or the landlord can designate it as an actual new unit under the previous legislation.

Mr. Laverty: Yes. This would relate to such a case; however, I would also note that a landlord faced with that situation would of course be able to go to rent review to claim the capital expenditure associated with a major renovation.

Mr. Reville: If any.

Mr. Laverty: As I understood it, there was a renovation in--

Mr. Reville: I did not say anything about a renovation, Dr. Laverty. Although sometimes a renovation is alleged, it does not then follow the allegation. Sometimes there is no renovation alleged at all. It is an empty unit.

Mr. Laverty: That is a matter of evidence as to whether there was a renovation, and if there was a renovation, what the appropriate costs were.

Mr. Reville: I have been pleased to give such evidence in the past as to whether renovations had occurred and as to whether it was necessary to have the unit vacant for such renovations to occur. However, the solution you seem to have found to this problem is to say: "You cannot get out of rent review this way. You cannot jigger around with the rent this way. But you can get a retroactive rent review awarded this way." You take the thing out of service, keep it out of service for a few years and come back and say, "If I had gone to rent review, I would have got all this extra money." Is that not so?

Mr. Laverty: It would be difficult to see where you would come out ahead financially, because the rent you would be able to charge would be exactly the same rent as if you had continuously rented it.

Mr. Reville: Not if I redid my financing in between.

Mr. Laverty: Pardon?

Mr. Reville: If I redid my financing and had much less equity in it, for instance.

Mr. Laverty: If you redid your financing, then that would be a--I am not quite sure how that would relate to the scenario in terms of it being economically beneficial to a landlord not to rent because of the provisions of section 95.

Mr. Reville: I should warn you, Dr. Laverty, the House leader for my party is here to my left and he taught me everything I know about rent review; he did that in five minutes. You are at some peril at the moment if you do not answer carefully.

Mr. McClellan: I have been here for three weeks.

Mr. Chairman: Are there any further questions? I assume that covers sections 95 and 96.

Mr. Laverty: Yes. The change to section 96 is similar in nature to the change to section 95.

Mr. Chairman: Are there any questions at all remaining on sections 95 or 96 after that joint effort by Mr. Reville and Mr. Laverty?

Clause 97(1)(a); Mr. Laverty.

Mr. Laverty: Clause 97(1)(a) adds to the list of things that are not permitted the collection of a fee and the collection of other like amounts of money. Here we deal with cases where a landlord is making a charge to a tenant of an illegal nature for the occupancy of the unit or what is commonly

referred to as "key money." We have added two additional cases to the list of activities which are ruled out by clause 97(1)(a).

Mr. Gordon: Is it the intention of the minister to widen this list through regulations?

Mr. Laverty: The act itself is referring to "other like amount of money," which is a matter of interpretation on what that will involve. I am not aware of any proposed regulations in that regard. The statement in the legislation is sufficiently broad to encompass a wide variety of activities. In this case, if you do not have a somewhat open-ended system, there will be great incentive provided to those landlords and tenants who wish to evade the intent of any legislation that rules out key money.

I am not aware of any further drafting on section 97 that would add to the list of additional fees or moneys paid.

Ms. Stratford: I am not aware of any such amendments, and there is no authority to make a regulation under that clause.

Mr. Gordon: Can you explain why that is the case?

Ms. Stratford: Why there is no authority to bring in a regulation?

Mr. Gordon: Yes.

Ms. Stratford: If there were to be authority with the Lieutenant Governor in Council to make regulations to expand clause (a), this clause would need to say that. It would need to say "or other amount of money as prescribed in the regulation." It does not say that.

Mr. Gordon: I see. Perhaps you can enlighten me. I become more and more educated each day. Where do we say in this bill that the government may do further things through regulation?

Ms. Stratford: Subsection 13(2) indicates the minister and the board are to follow prescribed policies and rules. Section 114 contains the authority for the Lieutenant Governor to make regulations.

Mr. Gordon: You say that would not cover this section under the miscellaneous, "The Lieutenant Governor in Council may make regulations."

Ms. Stratford: That would be my opinion, yes.

Mr. Gordon: I should not go out and get another legal opinion, should I?

Ms. Stratford: That is up to you.

Mr. Gordon: I take your word for it.

Mr. Chairman: Is there anything further on clause 97(1)(a)? Are you satisfied with subsection 97(2)? It is simply bringing consistency. Are there comments on that? We will move on to clause 97(2)(c).

Mr. Laverty: Again, clause 97(2)(c) is for the sake of consistency; it parallels the provision placed on a landlord not to do such horrible things under clause 97(1)(a), which we have just discussed.

Mr. Chairman: Are there any questions on clause 97(2)(c)?

Mr. Laverty: There is one other aspect here; that is, the reference to "or for otherwise parting with possession of the rental unit." When we were going through our presentation on this bill in August, cases were raised where the tenant performed an introduction service and was paid for it, although he or she was not, strictly speaking, assigning or subletting. That case inspired us to add that last phrase to this clause.

Mr. Chairman: Is there anything on clause 97(2)(c)? On subsection 98(3).

16:30

Mr. Laverty: In clause (a) of subsection 98(3), by striking out subsection 1, which was in the initial act--in the preamble, I guess; wait a second--

Mr. Chairman: Which (a) are you talking about?

Mr. Laverty: In removing subsection 98(3) we are amending (a)--no. Sorry. I am getting a little bit mixed up here, as you were, Mr. Chairman.

Mr. Chairman: Leave me out of this.

Mr. Laverty: It has been a long presentation.

There are three parts to the amendment to subsection 98(3). The first amends the preamble part of subsection 3. In the initial draft it reads, "Where a notice of appeal is filed with the board under subsection (1), a copy of the notice shall be given," and so on. We have deleted the reference to subsection 1 because there can also be a notice of appeal arising from subsection 2. We wish to make it clear that the provisions in subsection 3 apply whether it is a subsection 1 or a subsection 2 application.

The second and third amendments to subsection 98(3) in clauses (b) and (c) add a reference to "notice given under subsection 27(1)," which deals with circumstances in which the minister is proceeding on his own notice; that is, there is no application being made and the minister is acting on his own initiative. Where the initial action had been initiated by the minister, the material that would be forwarded to the board would be the same as it would if the initial process had been initiated by an application by one of the parties.

Mr. Chairman: Any questions on subsection 98(3)? If not, then 98(4).

Mr. Laverty: Once again, we are adding a reference to subsection 27(1) where the minister is proceeding on his own motion.

Mr. Chairman: Subsection 99(1).

Mr. Laverty: There are two changes here. One of them is another of our references to the minister's own motion, again dealing with those circumstances. The other change is a deletion from the initial wording. In the initial wording there was a phrase tacked on to the end of this, "in accordance with the prescribed procedural and interpretative rules and policies."

Under subsection 114(3) and under subsection 13(2), which legal counsel has just referred to, there is a reference to "procedural and interpretative

rules and policies." It was taken out of subsection 99(1) to remove a redundancy in the way the act was written.

Mr. Chairman: Any questions or comments on subsection 99(1)? If not, subsection 100(3).

Mr. Laverty: Subsection 100(3) is a new subsection to cover the eventuality that a party who initially requests a three-person panel on the appeal may subsequently decide to have only one person sit on the appeal. It allows a procedure to withdraw the initial request for a three-person panel.

Mr. Chairman: Are there any questions on subsection 100(3)? If not, subsections 101(2) and (2a).

Mr. Laverty: In the initial draft there is a reference to a pre-hearing conference and a number of items discussed at that pre-hearing conference. In subsection 2 there are recommendations that are made as a result of that pre-hearing conference. However, the references here are vague in several regards, and the new drafting further elucidates what will go on here.

First, the new drafting makes it clear how such recommendations are to be made. In the second line of this new subsection there is a reference to "written recommendations;" that is, the recommendations are to be in writing, to provide a permanent record of them, rather than merely oral and therefore less accessible.

Second, it tells us where the recommendations are to go. It indicates they are to be placed on the board's record file; that is, the file of material that the board members are to consider.

Third, it tells us something about how these representations can feed into the actual appeal process in terms of the actual hearing. That is covered in subsection 2a with regard to submitting "representations in respect thereof to the board at the hearing of the appeal."

When the appeal is commenced, the first things the appeal panel will want to deal with are the recommendations made from the pre-hearing conference. At that time, it will listen to any representations from the parties with respect to those recommendations and presumably will tell the parties what the board decided to do on the basis of the recommendations made. Everyone will have an opportunity to comment on them, and the board will have an opportunity to make a decision on those matters.

Mr. Chairman: That deals with subsections 101(2) and (2a)?

Mr. Laverty: Yes.

Mr. Chairman: Are there questions or comments on those? If not, section 109.

Mr. Laverty: Section 109 deals with the power for the board to rehear a case when in the opinion of the board there has been a serious error. In the initial draft, it was not clear which members of the board were being referred to, whether it was any member of the board or the members of the board who had sat on the original panel.

Arguments can be made on either side of this; however, we have decided, and inserted into the amendment, that the reference be to the members of the

board who made the order; that is, the ones who made the original order are the ones who will have to decide there is a serious error involved such that a rehearing will be required. The reason for doing this is that those members of the board who are actually acquainted with the matter will probably be in the best position, in terms of the knowledge of the case, to make a decision about whether a rehearing would be appropriate.

Mr. Chairman: Are there any questions on section 109? If not, section 111.

Mr. Laverty: Section 111 has been amended to incorporate a consideration similar to that in section 109. Section 111 in general deals with the eventuality that in the case of a three-person board, a member may cease to be a member of the board and not be available for a decision.

The amendments deal with a case where there are two out of three of the members of the board remaining and the question arises as to whether there has been a serious error made in the initial decision. Clauses 111(b) and 111(d) address the procedures that would be used in such a circumstance to decide whether a rehearing would take place. If it does, a third member would be appointed to the panel and the rehearing would occur.

Mr. Chairman: Are there any questions on section 111? If not, section 113a.

Mr. Laverty: Section 113a is an entirely new section and indeed an entirely new part. It stems from recommendation 3 on page 19 of the RRAC report, which calls for the licensing of rent review agents and consultants to control the practice of so-called rent reduction services, making contingency fees and under-the-table arrangements illegal.

The part of the recommendation that section 113a refers to is the first part, the licensing of rent review agents and consultants. Subsection 113a(1) calls for the payment of a fee to license an individual. The individual will have to meet certain criteria so the ministry is assured that the person is competent to practise as a residential tenancy consultant and the ministry can decide to withdraw such a licence if circumstances warrant.

Subsection 2 indicates that to represent someone for a fee before a rent review hearing, an individual must be either a licensed consultant or exempted by the regulations. There are various classes of individuals who would be considered for an exemption, one possible example being members of the legal profession.

Mr. Chairman: What about members of the profession I represent? Will MPPs be exempted?

Mr. Laverty: I am not sure we have contemplated the regulations with regard to that.

Mr. Chairman: That is very interesting, because I am sure you agree there are some members--I am not saying I am one of them--who know a great deal about rent review and the process

Mr. Laverty: I am quite sure.

Mr. Chairman: They might very well be considered for exemption.

Mr. Laverty: If you were charging a fee for that service, it would raise problems.

Mr. Chairman: Does this apply only to people who charge fees?

Mr. Laverty: Yes. If you are not charging a fee, you can represent anyone. It is only where you are charging a fee.

Mr. Epp: If they got an MPP, they would probably get everything they were paying for.

Mr. Gordon: And more.

Mr. Chairman: Okay. Is there anything else? Oh, you were not quite finished.

Mr. Laverty: The third subsection indicates that if an individual is not a licensed consultant, any agreement to pay a fee for the services of representing him would be void; that is, the individual who had contracted with someone who turned out not to be a registered consultant would not have to wind up paying the consultant.

Mr. Chairman: What happens if a tenant in a building decides to act on behalf of his or her fellow tenants? Will there be a fee for becoming licensed?

Mr. Laverty: Once again, the question in part will turn on whether that tenant is charging a fee to other tenants for the service. If a fee is being charged, then there is an argument to be made that the individual is practising residential tenancy consultancy. One might be caught by these regulations.

I must admit right off that this set of regulations has not even begun in terms of its drafting; so a number of these interesting questions are being addressed prior to any in-depth consideration on our part.

Mr. Chairman: Okay. Are there any questions or comments on section 113a? If not, section 114.

Mr. Laverty: Section 114 is that section of the act which indicates the Lieutenant Governor in Council may make various regulations.

When we were dealing with subsection 54(1) earlier, there was a provision that would allow the minister to limit the information provided by the rent registry in accordance with the prescribed rules. At that time, I explained that related to possible conflicts with freedom of information legislation.

The purpose of the amendment to section 114 is to allow the Lieutenant General in Council to proceed with making the regulations that have already been referred to in the body of the act.

There is another amendment to section 114 in paragraphs 31, 31a, 31b and 31c. The explanation is similar in nature. It provides the Lieutenant Governor in Council with powers relating to the licensing of the consultants which we touched on before.

Mr. Chairman: Subsection 117(2).

Mr. Laverty: In subsection 117(2), we are discussing the matter of contingency fees being charged by an individual who is representing a landlord or a tenant. Essentially, the contingency fee is a fee in which the amount of payment is contingent on the result. For example, it is not unknown in the matter of rent rebates for certain entrepreneurs to charge 50 per cent of the total rebate as a fee.

The Rent Review Advisory Committee made a recommendation to us on the matter of such contingency fees. In essence, it asked us to make contingency fees illegal. In subsequent discussion there appeared to be a difference on this in the RRAC. The drafting here replaces the word "mentioned" in subsection 117(2) with the word "prohibited."

16:50

With the first drafting of subsection 117(2), any contingency fee would have been void, even if it had been below the prescribed percentage. This was because such a fee would have been mentioned in subsection 117(1). By changing the reference in subsection 117(1) to "prohibited," we are referring to any contingency fee in excess of the prescribed percentage. The amendment makes it clear that the only circumstance in which the contingency fee payment would be void is where that fee is in excess of the prescribed amount.

Mr. Chairman: Are there any questions on subsection 117(2)? Clause 118(1)(h).

Mr. Laverty: The change here is related to recommendation 3 on page 19 of the RRAC agreement. The reference in the agreement is to make such contingency fees illegal. In fact, we are adding it as one of the offences under the act. Therefore, it will be covered by the same procedures and the same penalties as other offences outlined in the legislation.

Mr. Chairman: Are there any questions on section 118? That is not quite the end of the explanation of the amendments, because we stood down several sections, to be dealt with later. I believe there are still examples for section 77 to come to the committee. Did those come? I do not believe those came to the committee.

Mr. Laverty: We did table the examples for section 77.

Mr. Chairman: The rate of return and the bond?

Mr. Laverty: Yes. Those were tabled.

Mr. Chairman: Sections 14, 15 and 60 were stood down, according to my notes. Those were the only three that were stood down.

Mr. Gordon: I am quite prepared to deal with those things today and/or on Thursday, to complete this whole exercise. That does not include clause-by-clause.

Mr. Laverty: It is my understanding that sections 14 and 15 are almost ready. We are optimistic that we will be prepared to table them tomorrow, along with any discussion of them the committee may wish.

Mr. Chairman: Not today?

Mr. Laverty: I think today might be rushing it somewhat. There is a question of legislative drafting, which is a technical consideration. We have decided what we want to do. The question now is how to word it.

My understanding is that we had completed an explanation of section 60 and were to review with this committee some examples of how section 60 would work. Preliminary drafting of that presentation has been made, and we will be discussing that with our advisory committee early tomorrow afternoon. If that proceeds smoothly, we will also be prepared to discuss those examples with this committee.

The only other thing I am aware of on which we were meant to get back to you was the discussion of the term "equity" under the legislation. We have a two-page summary on that which we can table today or tomorrow, as the committee wishes.

Mr. Chairman: In other words, we cannot proceed with sections 14 and 15 or with section 60 until tomorrow. That is what I hear you saying.

Mr. Epp: But we still have the definitions to do today, as Mr. Laverty pointed out.

Mr. Chairman: The definition of "equity"? Is that what you mean?

Mr. Epp: Yes. That is one of them. Are there any others?

Mr. Chairman: I do not think so.

Mr. Laverty: That is the only one on which the committee requested further information.

Mr. Chairman: There seems to be a strategy session occurring among the three parties, which is a first on this bill.

Mr. Reville: We are having a little chat here, as you can see.

Ms. E. J.-Smith: We are trying to determine our position.

Mr. Reville: Can somebody advise us when the last word on sections 14 and 15 is due?

Mr. Chairman: Tomorrow.

Mr. Laverty: We hope the final legislative drafting will be available for tabling tomorrow afternoon.

Mr. Epp: Can I question legislative counsel--

Mr. Reville: We will have the tabled information tomorrow. If we do not understand it, we can ask about it.

Ms. E. J. Smith: The problem is that we are limited in representation here, and we would like to get through as much as possible, except sections 14 and 15.

Mr. Chairman: The only thing we can get through is the definition of "equity." That is all there is time for us to get through today.

Ms. E. J. Smith: The others are set down for sections 14 and 15.

Mr. Chairman: What the committee must decide is whether you want to deal with this now or whether you want to do it tomorrow.

Mr. Epp: If we are prepared to do it now, let us do it now, provided the other two parties agree.

Mr. Reville: I have something more interesting to do. I got an anonymous letter. Do you ever get those?

Mr. Epp: That person has written a lot of letters.

Mr. Reville: Do you know him?

Mr. Epp: Yes.

Mr. Reville: The definition of "equity" is going to make my head sore. What if we do this? What if we start to wander through the definitions and should anybody have a concern, we will hold that one down? If there is no concern expressed, we can start getting some of these off our list.

Mr. Chairman: I am in the hands of the committee.

Mr. Reville: I do not know whether Mrs. Smith heard me, but--

Ms. E. J. Smith: Sorry?

Mr. Reville: My proposal, Mrs. Smith, is that since the definition of "equity" is a complex matter and there are a number of definitions in the bill that may not be at all controversial, should there be a controversy, I believe it would be appropriate to hold them down, and if there is not, we will carry them.

Ms. E. J. Smith: When you talk about a controversy, that is more in a clause-by-clause context. The question now is whether we understand them.

Mr. Chairman: That is what Mr. Reville is suggesting.

Mr. Reville: I suggest we move now to clause-by-clause of the definitions that are not considered to be controversial. If Mr. Gordon thinks one is controversial, then we can agree to hold it down. He will want to get his colleagues in, and I will want to get mine in. If we all look at it and say there is nothing wrong with it, why can we not just carry it?

Ms. E. J. Smith: That is fine by me. I would go one further than that and say that if someone wants to reopen something, in the spirit of what we are co-operatively saying, it can be reopened, for this one session. I do not mean we can reopen things for ever, but what we do this afternoon when there is a shortage of members can be reopened.

17:00

Mr. Gordon: I am not willing to go to clause-by-clause without all my members.

Mr. Chairman: I agree with Mr. Gordon. I think it is pushing it a bit when the committee did not know this was going to happen. The minister is not here, and he indicated he wanted to be here in clause-by-clause. As well, there are a couple of things to come back to the committee. I believe there was also some more information on section 88 dealing with the chronically depressed rents that the ministry was working on with the RRAC.

Mr. Laverty: Can you recall the matter at issue that you wished additional information on?

Mr. Chairman: I thought it was examples.

Mr. Gordon: We asked for examples too, such as the books that were going to be used by the rent review administrators. There are a number of things we asked for which I am sure the ministry people made note of as we were going along and will be able to provide us with.

Mr. Chairman: By "ministry people," to whom do you refer? They are all frowning. I am not sure they did keep records.

Mr. Gordon: It is just that the lights in here are so bright it causes them to frown.

Mr. Laverty: There was a request, when we were discussing capital expenditures with regard to the appraisal or value, for a reference to some text on that matter; that was in connection with section 75. We will indeed table, well in advance of section 75, some references which members may consult in that regard.

Mr. Chairman: Let me make a suggestion to the committee that tomorrow we clean up what the ministry has available at the beginning of the session and then move directly into the clause-by-clause at the beginning of the bill.

If we want to proceed this way, we will also have to accept this rewritten bill, which is not an official bill in the view of the chamber. Because it was amended, we have to agree to accept that as the working document, which will make it much easier for all of us. We can do that when we start the clause-by-clause.

Is there any disagreement with waiting until tomorrow to tidy up what the ministry does not have available today and then starting on the clause-by-clause?

Mr. Peters: In terms of cleaning up what the ministry has available, I would think we would start preferably with the tabling of the amendments dealing with sections 14 and 15. I would assume we would then proceed with some discussion, should the committee so desire, on the definition of equity. The other examples that are to be brought forward--

Mr. Chairman: Yes, and section 60.

Mr. Peters: Section 60. Should we proceed tomorrow to finalize that, we can proceed to start clause-by-clause and, if not, I would assume we would start Monday. If we use up the three hours tomorrow, we would start Monday.

Mr. Chairman: For someone who burns diesel fuel in his cigarette lighter, you have a very clear understanding of where the committee intends to go.

Mr. Peters: I thank you, and so does my lighter.

Mr. Gordon: That is with one caveat, that what we hear is understandable.

Ms. E. J. Smith: Is "equity" an added definition? I am having trouble locating the word.

Mr. Peters: Some time ago Mr. Jackson asked for a definition of equity to be tabled for the committee. I believe it was his view that it would be required if, in his judgement, the material presented was insufficient. If it was going to be addressed in the regulation, he wanted to see what types of things the regulation would address. That was the intent of the paper on equity, which will be tabled tomorrow.

There is not definition in the act, as drafted, covering equity; it was to be done by regulation, and this process will outline what it meant and why it was done in regulation.

The committee adjourned at 17:05 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

THURSDAY, OCTOBER 30, 1986

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsview L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, E. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service
Fader, J. A., Deputy Senior Legislative Counsel

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)
Parker, J., Director, Rent Review Services Branch, Rent Review Division
Stratford, L. A., Senior Solicitor, Rent Review Division
Peters, F. H., Executive Director, Rent Review Division
Braund, D., Rent Registrar, Rent Review Division
Laverty, P., Director, Rent Review Policy Branch, Rent Review Division

From the Rent Review Advisory Committee:

Hogan, M., Co-Chairperson
Sifton, G.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, October 30, 1986

The committee met at 3:40 p.m. in room 151.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The committee will come to order. When we adjourned yesterday afternoon, we had agreed to a couple of things. One was to deal with the amended sections 14, 15 and 60 of the bill. We have the amended versions of sections 14 and 15 with us; they are being distributed now. I think the minister wanted to say a word about them.

Hon. Mr. Curling: I have a very short statement. I want to commend the committee for getting through this so quickly. I have heard it is progressing very well.

Mr. Gordon: Could you mention my name, please?

Hon. Mr. Curling: Jim Gordon has asked me to mention his name. I will mention his name, Jim Gordon, because he has stood by all this time.

We thank you for the patience you have exercised and, as promised, here are sections 14 and 15.

Also, as I promised to report, we have been able to have a very successful meeting with the Association of Municipalities of Ontario in which it was apprised of this. I said I would get back to you on this, and that is what I have done.

I knew you would like my company but, unfortunately, I have to report to another meeting in a very short time. I know you will miss me very much.

Mr. Chairman: Thank you for that information.

Hon. Mr. Curling: The director of the rent review services branch will assist us in going through sections 14 and 15.

Mr. Chairman: We also have with us today Ms. Hogan and Mr. Sifton from the Rent Review Advisory Committee. Welcome to the committee. We appreciate your presence here.

Mr. Pierce: I have a question for the minister. Did you say you had a meeting with AMO?

Hon. Mr. Curling: With the executive of AMO, yes.

Mr. Pierce: You did not say how happy AMO is. Is it happy with the bill as it is proposed, specifically with respect to the maintenance board and who will actually do the inspections? Is it in agreement that the municipalities will do the inspections and have the inspectors, or were there any comments?

Hon. Mr. Curling: There were comments. We went through some of the fears the executive expressed, and it was explained. When Mr. Parker goes through with that review, he will assure you. If you ask some of the questions you just asked, such as who will do the work and how it will be done--

Mr. Pierce: What I am asking for, though, is the response AMO gave, not who will do it or how it will be done. I am asking for AMO's response to that.

Hon. Mr. Curling: It was satisfied.

Mr. Pierce: It is happy with the proposals on who will do the inspections and how the maintenance board will be structured?

Hon. Mr. Curling: Yes.

Mr. Chairman: Can we move directly to the proposed amendments to sections 14 and 15 as put by the minister? Mr. Parker, do you wish to carry on in the fine tradition of Mr. Laverty and explain the amendment?

Mr. Parker: I will make every attempt to follow along in the fine tradition of my colleague Dr. Laverty.

Perhaps by way of a very quick overview, the amendment before you to section 14 provides for the establishment of the Residential Rental Standards Board. Section 15 outlines the responsibilities of that board towards a long-term system as well as its specific duties in advising the minister and providing orders relative to rent determination and tying rent determination to noncompliance with substantial maintenance standards.

Subsection 14(1), as indicated, outlines that, "A board to be known as the Residential Rental Standards Board, hereinafter called the standards board, is established, composed of such number of members as the Lieutenant Governor in Council appoints."

As a point of clarification, inasmuch as it is a fairly lengthy amendment, members of the committee may wish to have some time to read and digest the various sections. I will attempt to go through each of them in my presentation, and I am quite prepared to deal with questions as they arise.

Mr. Chairman: Let us do section 14 first. Are there any questions on that?

Mr. Reville: It would be most useful for me, and perhaps for the other members of the committee, if Mr. Parker would indicate to us in what way this amendment differs from the one we have before us in the document reprinted to show the amendments proposed. We could perhaps follow along that way, and if there is a rationale that Mr. Parker cares to share with us for the change, we could get it at the same time.

Subsection 14(1) does not seem very different to me. Maybe it is.

Mr. Parker: That is correct. Subsection 14(2) in the proposed amendments indicates that the board "shall be assisted in the performance of its duties by such officers and employees of the Ministry as the Minister assigns for the purpose." That provision was not contained in the earlier provisions of the bill.

Ms. E.-J. Smith: Looking at them and comparing them, it is not going to be very beneficial to try to go back and forth. Right away, there are minimum standards in section 15 which are in section 14 in the book. We might do better to start from scratch, if it is all right with Mr. Reville. I do not think a cross-comparison is going to work.

Mr. Reville: Perhaps we should stop and see whether we can discover a reason for the structure of the sections having been altered so radically before we get into the actual nits and picks. Was there a particular reason to take out the function of the standards board and put it into section 15? Is it just a drafting choice? We are having a knowledge base problem here.

Mr. Parker: I believe the question was whether it was a drafting issue or a legal one. I will ask Louise Stratford, the legal counsel, to provide some information.

Ms. Stratford: The new version of section 14 is expanded to describe the board itself, and it includes a couple of other provisions about employees and remuneration for board members. As a result of that expansion, it is just a drafting matter.

We felt it best to start a new section when we changed the subject, the new subject being the duties of that board. That is the reason for the renumbering.

The original sections contained a very different scheme for the way the standards would be implemented and enforced, and that is the essence of the change. That is why it is not useful to compare the two. The new one is quite different and apart.

Mr. Reville: You are absolutely right, Ms. Stratford. From my point of view, subsections 14(1), (2) and (3), as amended, are understandable. It is just an establishment section. Unless other members of the committee have questions, I would be happy to go to subsection 15(1).

Mr. Chairman: Any other comments or questions on 14?

Ms. E. J. Smith: No.

Mr. Chairman: All right. Can we move to section 15?

Mr. Parker: Clauses 15(1)(a), (b), (c) and (d) outline the recommending features this board will have in providing advice to the minister on the establishment of additional powers that would be conferred on the board in the future and the appropriate maintenance standards for residential complexes in the units located therein.

In addition, the section outlines the responsibility of the board in recommending to the minister the form and content of educational or other programs which will ensure landlords and tenants are made aware of the benefits conferred and obligations imposed by the provisions of this act.

It also provides in clause (e) that the board shall receive a copy of any order relating to a residential complex or any rental units located therein.

Perhaps it would be appropriate to break at that point for questions.

15:50

Mr. Chairman: Are there any comments or questions on clauses 15(1)(a) to (e)?

Mr. Gordon: I presume you have the regulations ready with regard to this section.

Mr. Parker: No regulations have been drafted at this point.

Mr. Gordon: Have you drafted any?

Mr. Parker: Maintenance standards?

Mr. Gordon: Yes.

Mr. Parker: No regulations have been drafted. It is important to understand that in the provisions of this legislation it is intended to utilize existing standards in municipalities that have bylaws of occupancy and maintenance. The issue of regulations has yet to be dealt with.

Mr. Gordon: Then there are no working papers on future guidelines and/or regulations dealing with this section?

Mr. Parker: No.

Mr. Gordon: Do I correctly understand you to say nothing new is going to go on with regard to the maintenance standards board? I think you just told me it was going to use existing bylaw occupancy regulations. Is that true?

Mr. Parker: I think that question can be answered very effectively when we get to the actual--

Mr. Gordon: Is that not what you just said?

Mr. Parker: That is right.

Mr. Gordon: That is what I thought.

Mr. Chairman: Is there anything else on clauses 15 1(a) to (e)? Mr. Reville.

Mr. Reville: Mr. Cordiano is--

Mr. Cordiano: Do I have the floor?

Mr. Chairman: No. Mr. Reville has the floor.

Mr. Cordiano: Oh, all right.

Mr. Reville: I hope I am not being obtuse, but I do feel the need to refer back to this original document, so I can determine the manner in which your proposed amendment changes what we have been familiar with. If people will bear with me, I would like to go through each of these subsections seriatim, so I can refer back to the bill and find where the changes are. Do you mind, Mr. Gordon?

Mr. Gordon: Not at all.

Mr. Reville: Do you mind, Mr. Cordiano?

Mr. Cordiano: I wanted to ask Mr. Parker a question with reference to what Mr. Gordon was saying.

Mr. Reville: In that case, we will get it out of the way.

Mr. Chairman: Go ahead, Mr. Cordiano.

Mr. Cordiano: I wanted to clarify what you were saying, Mr. Parker, because I think there was somewhat of a misinterpretation on Mr. Gordon's part; at least I did not quite understand what Mr. Gordon asked initially. I do not think your response was to the question asked by Mr. Gordon. With respect, I simply want to go back to the point that was made.

In the amendments being brought forward, reference is made to the effect that nothing new is contained in these amendments with regard to occupancy standards in municipalities. Indeed, what we are doing is taking what was there and putting it in the bill. Is it your view that in several municipalities there are no standards and, as a result, that is radically different from the situation we have now; that is, what we are doing with the maintenance standards board in sections 14 and 15 is in fact providing for some standards to appear where none existed before?

Mr. Parker: That is correct. As I mentioned in my response to Mr. Gordon, further on in the amendment is detailed the operation of the board in those areas for which there are no standards. My reference to using municipal standards where they exist in the interim system is the plan for a municipality that has standards. Those standards will be used to trigger the system that ties rent determination to noncompliance with substantial standards.

Mr. Cordiano: In effect, we will have the establishment of a system that will see us through this interim period to the point where the maintenance standards board is created and off and working. Is that correct?

Mr. Parker: That is correct.

Mr. Reville: Mr. Parker, would I be right in assuming that clause 15(1)(a), as amended, refers back to clause 14(2)(a) and then adds, "and appropriate standards relating to the health and safety of the occupants thereof." In other respects it seems similar but not exactly--

Mr. Parker: Clause 14(2)(a), in the present drafting of the legislation, talks about the board developing and establishing appropriate minimum maintenance standards to apply to all residential complexes. The difference in clause 15(1)(a) is that the standards board will recommend to the minister that the appropriate minimum maintenance standards that should be made are acceptable.

Mr. Reville: There is something different there. The minister is going to receive recommendations from the board.

Mr. Parker: That is correct.

Mr. Reville: The recommendations are somewhat different because they are more than minimum maintenance standards; they relate to health and safety

standards as well. That broadens the powers somewhat from clause 14(2)(a). Is that correct?

Mr. Parker: It would be my view that it tends to specify that those minimum maintenance standards would apply too.

Mr. Reville: Is there a difference between a minimum maintenance standard and an appropriate standard relating to the health and safety of occupants?

Mr. Parker: The minimum maintenance standards that are referred to are those that deal with life, health and safety issues.

Mr. Reville: Is there an attempt to blend property standards bylaws here and various regulations under the public health act?

Mr. Parker: In the interim system the board, in receiving information from municipalities and in the review of other legislation, may find that, indeed, provisions of other legislation would be used in developing the minimum maintenance standards.

Mr. Chairman: Mr. Reville, may I jump in?

Mr. Reville: Yes, please jump in.

Mr. Chairman: I have a sense of nervousness about this section. I am not sure Mr. Reville shares it, but I have a sense of nervousness that something is being changed here; I do not know what it is in layman's terms, and I would like to know. There must be a reason for these changes. I am feeling uneasy that we are not getting, dare I say, frank answers to our questions as to what is changed and why.

Mr. Peters: If I may, during the discussion on sections 14 and 15 previously held, I believe it was indicated that this was one issue that was still before the Rent Review Advisory Committee and that the minister was optimistic they would be able to resolve those differences and at that point he would bring forward to the committee amendments that would reflect the agreement reached by RRAC. The agreement that does so is now before the committee.

There have been some changes in the format and process, if you will, of the Residential Rental Standards Board that are reflected in the amendment. It develops a new system which achieves, in a direct way, the relationship between failure to comply with the standard and the rent determination process.

The sections of the amendment clearly outline how they are to be done on an interim basis pending the development of a permanent system which would admit a broader examination of standards across Ontario, recognizing such things as regional differences in standards and various and sundry other issues that need to be examined for a fully blown, more permanent system.

16:00

In that context, the amendment as written does change some of the order of presentation. It separates the two sections quite clearly. It talks about a process for enforcement under the proposed system, and it talks about what the future system would be like on some issues, referencing the contribution of the Residential Rental Standards Board to that system.

It is important to keep in mind two facts: It says this is what will happen now, and at the same time, it clearly indicates what the expectation is of the board for the future system and what issues should be identified and developed by that board for the future.

Mr. Cordiano: Are you saying that once the board is established, it will, at some point in an evolutionary manner, establish what those minimum maintenance standards are to be right across the province?

Mr. Peters: Yes. As was mentioned previously before the committee, the system suggests now that there are approximately 225 municipalities with property standards bylaws, covering approximately 80 per cent of the population. The system as proposed under subsections 15e(1) and (2) says that failure to comply with the substantial standard under those existing provisions would be able to be brought into the rent determination process and could result in either a rent stay or a rent forfeiture.

It goes on to talk about what would happen where standards are not in place, and at the same time it indicates that on a broader perspective the board will be developing standards on a more permanent basis. Basically, that is what the amendment attempts to address.

Mr. Chairman: Mr. Reville, I interrupted you; perhaps you have another question.

Mr. Reville: Perhaps we have yet to ask the correct question. I am not finding these explanations particularly helpful. It seems to me there is a fundamental change. The board's function is changing in these amendments. The board is no longer the group that develops and establishes the standards. The minister does that on the recommendation of the board. The board is having an advisory function rather than a delegated ministerial function. There must be some reason for that.

I would like to ask Ms. Hogan or Mr. Sifton whether the members of the subcommittee working on maintenance, in their consultations, felt more secure with the minister doing this work, or perhaps some other reason exists that we have not heard.

Ms. Hogan: I defer to Mr. Sifton, because he was a member of the subcommittee. I was not.

Mr. Sifton: I am not sure I can answer specifically other than to say there was some concern among the subcommittee members that it might not be totally appropriate to have the board developing the standards, which it will then enforce and operate under. It might be more appropriate to have someone accountable developing those standards--accountable to the public--rather than this board, which is an appointed board.

Mr. Chairman: Ms. Smith, did you want a supplementary?

Ms. E. J. Smith: Supplementary, and following on that, I too sense some uneasiness here that I cannot quite identify. It seems quite logical, from what we see here. In the first place, Mr. Reville's question suggested this was broadened a bit, which I think it is. It refers to appropriate health and safety standards, which is a positive answer, and it seems to me that is what it says.

From what I hear from Mr. Peters, it seems that since we are going to continue to work with the Rent Review Advisory Committee, which is going to

help us establish the standards, obviously it is the minister's committee. That makes it a logical reason. I agree with Mr. Sifton that the purpose of this standards board is to judge and enforce.

The RRAC is going to work with the minister and continue to develop standards as time goes on. This is a first step in getting at the most vital things, but they will continue to work on it. Therefore, as they work on it, they will advise the minister. Whatever the minister agrees to with them will then become what the standards board enforces. That is the way it seems to me. Am I wrong?

Mr. Chairman: We are dealing with the standards board here, not RRAC.

Ms. E. J. Smith: Yes, but that is why it is changed to the minister. That is what I mean. It has to be the minister in order for RRAC to stand in.

Mr. Reville: A voice from heaven which has come to me suggests that if we hear the whole spiel, we may understand what this is about. I suppose we should hear the whole spiel.

Mr. Chairman: Rather than ignore advice from heaven, perhaps we should ask Mr. Parker to do that. I do not think the committee wants all the amendment read to us. We want it explained.

Mr. Reville: We want to understand it.

Mr. Parker: Very good. I begin again with section 14, which establishes, as does the present legislation as drafted, the Residential Rental Standards Board. Section 14 outlines the provision of staff and resources and the remuneration of the members of that board.

Clauses 15(1)(a), (b) and (c) provide for the board, in its advisory capacity to the minister for developing a longer-term system, the ability to recommend "appropriate minimum maintenance standards that should be made applicable" and "the powers and duties that should be conferred or imposed on the standards board respecting the development and enforcement of appropriate maintenance standards...relating to the health and safety of the occupants" as well as to recommend to the minister the form and content of education that should be made part of the overall ministry education program relative to maintenance standards and targeted towards landlords and tenants.

Clause 15(1)(d) deals with recommending to the minister methods that enhance communication between landlords and tenants in dealing with maintenance issues.

Clause 15(1)(e) provides for the board to receive "a copy of any order relating to a residential complex or any rental unit located therein." Here we talk about the interim procedures this board will have as it moves to develop a longer-term system. It can receive orders "issued by a property standards officer under a bylaw passed under section 31 of the Planning Act, 1983" or copies of orders "made under the provisions of any general or special act, or any bylaw passed thereunder, respecting standards" of health and safety, the illustration being orders that may be written by the medical officer of health under the Public Health Act or the fire marshal under the Fire Marshals Act, and any notices or appeals that may be put forward relative to the orders under those acts. This allows the board to receive in the interim information about standards, bylaws and orders directed towards owners, where there have been violations of those standards. That is all those provisions do.

U B 9

Clause 15(1)(f) provides for the board to "receive and investigate written complaints from a current tenant...in respect of the rental unit or residential complex...where minimum maintenance standards adopted by the standards board under the act are in force in an area in which the residential complex is situated." There is provision for direct reference by a tenant to the board.

16:10

In the interim, it should be explained that the board, where there are municipalities that have occupancy and standards bylaws, will receive copies of orders given under those bylaws. The role of the municipality will be to do no more than it is currently undertaking relative to those bylaws. The significant differences between these amendments and the provisions in the legislation, in Bill 51, were that the municipalities were enforcing the provisions of Bill 51 relative to maintenance standards.

Subsection 15(2) outlines the activities the board will undertake upon receipt of a copy of an order referred to in the previous clause. Its function will be to determine whether it is a substantial standard that has been breached and whether the breach of that standard continues to be a subsisting one and whether there is substantial noncompliance with the order that has been written.

The focus of the board's determination will be on the substantial nature of the violation. Where the board has determined that it is a substantial standard and there is continuing noncompliance or substantial noncompliance with that order, as noted in subsection 15(3), it will provide a report to the minister.

As noted in subsection 15(4), when the report that is received by the minister under the previous section indicates, as mentioned, that substantial noncompliance with the standard has occurred and is continuing, the minister, on his own motion in this instance, may order that the collection by the landlord of any increase in rent on a rental unit in a residential complex affected by the maintenance and occupancy order that either takes effect on or after the date specified in the minister's order, or that took effect any time in the nine-month period preceding the date of the minister's order, be stayed until the minister receives a report from the standards board that the complex and the affected unit are in compliance with the provisions of the order.

The next clause outlines the consequence should there be continuing noncompliance with the order, that being that the collection of the rent increase is forfeited. That is the process that would be utilized in areas where occupancy standards bylaws are in force within municipalities.

Perhaps this is an appropriate time to break for any questions.

Mr. Reville: If I understand the new system that is being suggested, the only function the municipality has is the inspection function. The property standards officer of the municipality will inspect on the complaint and will then forward the complaint to the standards board and not to the council. Is that correct?

Mr. Parker: No. That is not correct. The property standards officers in the performance of their duties would inspect, issue a notice under the

provisions of their bylaw, or issue an order, depending on the action that is taken and the notice given by the officers. However, if it is required that an order be written to compel the owner of the building to fix the problem, that order is appealable to the municipal appeal panel, which can quash, vary or confirm the inspector's order. Only when that order is confirmed is it passed on to the Residential Rental Standards Board.

It was brought to our attention in discussion with some members of the executive of the Association of Municipalities of Ontario that in many instances the giving of the notice by the property standards officer was sufficient to gain compliance and an order was not required.

Mr. Reville: And in many instances it was not.

The process is complaint, inspection, notice or order. If there is a notice, then there is a delay. If there is an order, the order is appealable to the municipal appeal tribunal. I know of one in the city of Toronto called the housing standards appeal board, a wonderful group. If it upholds the order, is it then directed to the standards board?

Mr. Parker: A copy is sent to the rental standards board.

Mr. Reville: Can you give us some rough time lines from the day I telephone the buildings and inspections department to the day I might expect to get some action, if I have a recalcitrant landlord on my hands?

Mr. Parker: I do not have a specific illustration for you, but we can undertake to provide you with a time line. It may vary, depending on the ability of the property standards officer to begin a dialogue with the owner after a notice is given. It would depend upon the length of time of the appeal, if one were undertaken or proceeded with after an order was written.

It also should be noted that even though the order may be forwarded to the Residential Rental Standards Board, the order in question may not be dealing with a substantial standard and there may not be substantial noncompliance for the purposes of applying a rent penalty. The order may deal with an area that is outside the concerns of the standards board.

Mr. Reville: Does the property standards inspector arrive on the scene with fairly broad discretionary powers in terms of whether a notice or an order is issued? Is there a manual this official carries?

Mr. Parker: Individual municipal bylaws dealing with maintenance and occupancy standards outline the requirements of the officer in giving notice, including the fact that a notice is required after an inspection and the time for giving of notice. I do not have specific information relative to those times.

Mr. Reville: There is normally a time that is allowed to meet the conditions in the notice?

Mr. Parker: That is correct.

Mr. Reville: Can you give us a notion of how long that normally is, whether it is 90 days or 30 days?

Mr. Parker: It may be a function of the maintenance issue that is in question.

Mr. Reville: A fire, health and safety type of issue would be shorter notice than a dirty corridor?

Mr. Parker: Things dealing with emergencies would be shorter time frames.

16:20

Mr. Reville: If we are thinking of a municipality that does have a significant property standards inspection establishment and a fairly tough property standards bylaw, is the major difference here in terms of the penalty that can be imposed for noncompliance? Is that fair to say? Instead of going through all this stuff about eventually going to court, where a fine may or not be levied under the current system, can noncompliance in this case result in an actual rent-related consequence?

Mr. Parker: That is correct. That is the additional penalty provided through this system.

Mr. Reville: Do the original penalties continue to apply?

Mr. Parker: All the provisions and powers of the municipality to effect the work being done, etc., would continue.

Mr. Reville: There are two enforcement streams that could be utilized.

Mr. Parker: There are measures which the municipality can take to get compliance, and if the standard is substantial and there is substantial noncompliance, the minister can provide a rent penalty upon the advice of the board. As you will note in the amendment, there is one instance where there is a district court order that has been made under section 96 of the Landlord and Tenant Act. Where that exists, the minister would not take any action to stay or to have a rent forfeited.

Mr. Reville: So I can begin to understand this a bit better, up to the point when the municipal appeal tribunal deals with the matter, the system obtains much the same as it does now, but the standards board is an alternative stream to going to a court. The order is upheld by the municipal appeal tribunal. At that point, the municipal authority forwards that order to the standards board.

Mr. Parker: That is correct.

Mr. Reville: I would assume it could also take legal action under existing legislation.

Mr. Parker: That is correct.

Ms. E. J. Smith: I gather from subsection 15(2) that there could be bylaws in place in some municipalities that are heavier than the bylaws that will be applied by this standards board. Is that correct?

Mr. Parker: That may be the case.

Ms. E. J. Smith: That is what subsection 15(2) seems to say to me. Once the city has established there is something at fault here, then the standards board will determine whether it is sufficiently substantial that rent can be held back.

Mr. Parker: The illustration I have been given by a property standards officer in this situation is that if the order dealt with the need for a fence to be painted, it would be one type of order. If the order dealt with the need to build a fence around a swimming pool, that could be seen to be substantial because it could affect life, health and safety.

Ms. E. J. Smith: I have one other question. I also note in subsection 15(4) that where only one unit is affected, it becomes a one-unit penalty.

Mr. Parker: That is correct.

Ms. E. J. Smith: The word "general," such as a swimming pool, would affect the whole building?

Mr. Parker: That is correct.

Mr. Pierce: Is the standards board a full-time board? Does it sit every day of the week, five days a week?

Mr. Parker: The actual number of days on which the board would sit has yet to be determined. I do not have a direct answer for you as to whether they would sit full-time, but they would be appointments to the board.

Mr. Pierce: The reason I asked was that a number of noncompliance orders could come through. I just throw this out for consideration. If the board met only once or twice a month, these things could sit, could they not?

Ms. E. J. Smith: I agree with you.

Mr. Pierce: I thought you were telling me something.

They could sit on the desk for a long time before any action was taken. In drafting this amendment, somebody within the ministry must know the schedule the board will have to look at to satisfy the noncompliance order.

Mr. Parker: It is anticipated the board would have to sit continually for some time to deal adequately with its operating procedures, the major problems that would come before it and to set up the administrative practices necessary to deal with orders as they come in on a day-to-day basis.

Mr. Pierce: Can you tell me the number of people on the board? How big a board is it?

Mr. Parker: The actual number on the board has yet to be determined. The intent is that the board will have a broad representation of landlords, tenants, the building industry, inspection associations, municipalities and others, recognizing its significant developmental role as well as its interim requirements.

Mr. Pierce: It is going to require a large boardroom.

Mr. Parker: That may be the case.

Mr. Chairman: I had a supplementary from Mrs. Smith; then Mr. Reville.

Ms. E. J. Smith: On the supplementary about the meeting of the board and so on, we talk about the Ontario Municipal Board, which also is a board.

Yet it meets in bits and pieces. Do you visualize that sort of board, or have you got that far? Perhaps all this has yet to be developed.

Mr. Parker: The actual administrative and operating procedures of the board in the interim period have yet to be developed. Certainly, we will be seeking the advice of many people about the volumes of problems we may be faced with; they might be able to quickly relate standards problems to rent determination.

I should mention that in the 21 field offices of the rent review services branch, I expect staff will be receiving tenant applications relative to changes in maintenance and standards of repair as well as complaints. It will be the responsibility of our staff to ensure those people are assisted in getting their communications forwarded perhaps to the municipality or the standards boards or whatever. We will have a responsibility to assist them and to provide the education needed to have them understand how the system will work.

Mr. Chairman: Mr. Reville, do you have a supplementary or a question?

Mr. Reville: I do not know.

Mr. Chairman: All right. I will go to Mr. Pierce, who had the floor initially; then Mr. Gordon is next.

Mr. Pierce: I have a supplementary to Ms. Smith's reference to the OMB.

If the standards board is to be likened to the OMB--I am sure we are all aware of the length of time it takes to get a hearing with the OMB--I would hate to think we are heading in the same direction with the standards board.

Ms. E. J. Smith: I did not mean to make that sort of comparison. I trust we are going to make this a very speedy board. My comparison was meant to be that the OMB can meet in a big building over there holding people who belong to the OMB; they go out in twos and threes and ones. That is what I wondered about in my question. I assume that speed of things is something that is a commitment rather than the details available now that we must be committed to--

Mr. Pierce: That was just for clarification, Mr. Chairman.

Mr. Chairman: Do you want to comment on that point, Mr. Parker?

Mr. Parker: No. I believe Mrs. Smith's response answered that.

Mr. Chairman: It adequately answered that. Fine.

16:30

Mr. Gordon: What is required for this committee is a flow chart that shows in a visual form how this is going to work. It is very difficult to get a handle on it in this manner. Mind you, I am pleased with the explanation that has been given to date, but I want to see something visual. I also want to see the various steps, starting from where the property standards officer goes to the apartment and gives either a notice or an order, where it goes next and so forth. That would be helpful to the committee.

Do I take it we will have a standards board in Toronto? I presume it will just be in Toronto. If that is the way it is established, will we have little satellites of this board all over Ontario? Will we have a special computer hookup between cities using television? We have telemedicine now. Will we have telerental?

The Acting Chairman (Mr. Cordiano): Mr. Gordon, you certainly have grand views.

Mr. Gordon: Wait. Let me finish, Mr. Chairman. You will get your say.

Mr. Reville: They will be stacked up over Pearson International Airport.

Mr. Gordon: I want to get a clear picture of what we are talking about. There was some mention of a municipal board not being from a big city. I have never seen one of these municipal appeal tribunals. Does this mean that if a municipality does not have a municipal appeal tribunal, it is incumbent upon the municipality to establish one? If it does not establish one, does it have any--

Ms. E. J. Smith: They are provincial.

Mr. Gordon: No, they are not provincial. If they are provincial, why are they called municipal appeal tribunals?

Ms. E. J. Smith: The Ontario Municipal Board is provincial.

Mr. Gordon: Anyway, we will not get into that.

Ms. E. J. Smith: I am sorry I raised it.

Mr. Gordon: I would not worry about it. I am glad you raised it. It shows that even the government is confused, but not you.

I believe we need some help here. I know you have spent a lot of time on this, Mr. Parker, as has the Rent Review Advisory Committee. We are not trying to upset your delicate balance or anything such as that.

Mr. Reville: Tell them to come back when they are ready.

Mr. Gordon: I hope somebody is taking these things down. I want to know how many people will be employed. I would like projections of the first year's cost of all the people who will be required, with a projection over the next five years. I want to know what this will cost the taxpayers of Ontario, because they should know.

That is about all for now.

Ms. E. J. Smith: It is going to be pretty much straight guesswork.

Mr. Gordon: Guesswork?

Ms. E. J. Smith: Yes.

Mr. Gordon: If you are going to set something up, it is incumbent upon the government to know what it will cost.

The Acting Chairman: We will hear from Mr. Parker.

Mr. Gordon: The public should not be faced with the retort: "When we set up programs, we are only guessing. We will guess how much more you will have to pay in taxes for all these frills."

Can we hear from the ministry directly?

Mr. Parker: I believe the essence of your first question was whether the board would have regional offices and regional presence or whether it would all be in Toronto.

Mr. Gordon: Yes.

Mr. Parker: In the long term that may be the case. It would be the responsibility of this interim board, after receiving copies of orders and getting an understanding of the magnitude of problems, to recommend the most appropriate delivery structure in the longer term.

In the interim period there will be a need for this board to cause inspections to be made in municipalities where there are no bylaws--in fact, in areas of the province where there are no municipalities relative to the Municipal Act. Through the minister, the appropriate staff and the numbers of staff would be made available to allow them to carry out their responsibilities. That is our response to the first question.

We will undertake to provide a flow chart and a graphic illustration for you. I defer to Mr. Peters in terms of how much in the first year--there will be some understanding in the first year that it will clearly be part of the mandate of this interim board to establish the costs of the program it recommends for the longer term. That will be part of the input provided to the minister.

Mr. Gordon: Are you planning to have the rent review administrators play a role in this inspection business, or are they off in their own little world?

Mr. Parker: It is our expectation that because they will be very much on the front line, and in the view of the landlords and tenants will become the contact on an ongoing basis for landlords and tenants relative to problems, the rent review administrators will be very much involved. As I mentioned earlier, in assisting them to understand their rights and responsibilities and the protections this system offers, they will receive the advice from the board on the nature of the standards violated in making decisions under rent review.

Mr. Gordon: That is all for now.

Mr. Reville: This is going to be some flow chart. I predict there will be 4,002 steps, lots of queues, advice, waits and stuff. I have some dim recollection of the Toronto Housing Standards Appeal Committee from my days as an alderman, partly because we had a nominating committee at Toronto city hall and one of the functions I performed while I was on it was to review thousands of applications from people who wanted to sit on city agencies, boards and commissions. One of them was the housing standards appeal committee.

My recollection is that it is currently a very busy operation. It operates at some considerable cost to the municipality and has a considerable

work load. It struggles with difficult philosophical questions, such as how low is too low for a ceiling and whether people should be thrown out of their third-floor apartment because it has a low ceiling, notwithstanding that they are short persons; that sort of difficult question. Then it tries to talk to the makers of the Ontario Building Code about these matters.

Surely one of the pieces of information we need to know is whether all municipalities have such appeal tribunals. Are they required by provincial legislation? If they do not exist, how do they become established in due process? How often would they have to meet? I do not see anything in this amendment that puts that part of the process into place. One wonders how the Association of Municipalities of Ontario could be happy if it does not have that information.

For the system to work, surely you have to have the housing standards appeal committee or its equivalent meeting often enough to decide whether to uphold or overturn the order of the property standards officer so the next step can be reached. In terms of natural justice, I suppose a landlord should have the opportunity to appeal any order. However, this looks like a very lengthy system, and it is unclear to me whether orders can be delivered on a timely basis to the provincial standards board. I need some help on that.

16:40

Mr. Parker: In answer to your first question of whether a municipality is required to establish an appeal committee, I believe subsections 31(11) through (15) of the Planning Act require that a property standards committee must be established by the municipal council to hear appeals.

The intent here is that in the interim system the municipalities will not be required to do any more than they are currently doing relative to this issue. The responsibility for determining whether an order is substantial for the purposes of rent determination will be the responsibility of the Residential Rental Standards Board.

The present provisions in Bill 51 require the municipality to make that determination. It was information provided to us through the Association of Municipalities of Ontario; that provision gave them a great deal of concern. The process in the interim period has the board establishing whether there is substantial noncompliance.

Mr. Reville: Does that replace the possibility of an appeal at the municipal level?

Mr. Parker: No, it does not.

Mr. Reville: How does it get to the standards board if the municipality does not have an appeal tribunal?

Mr. Parker: My understanding is that there is a requirement that they have one if they have an occupancy and maintenance standards bylaw and an inspection activity enforcing that bylaw. Where an order has been given, the opportunity for appeal is provided.

Mr. Reville: That leaves us with two questions. Is it in fact the case that municipalities with property standards bylaws have appeal tribunals? If so, do they meet on a timely basis so the work can flow through in a manner

that gives some relief to the people at the complainant end of the system? We do not know that, do we?

Mr. Gordon: How many municipalities have bylaws and how many have committees?

Mr. Parker: There are 225 municipalities that have occupancy or maintenance standards bylaws. It is my understanding that the majority have property standards committees. I believe that is the terminology used; some municipalities may have different terms. Some municipalities chose not to enforce those bylaws, in which case they may not have constituted appeal committees; there would be no orders coming to them. I do not have the exact number of those that have appeal committees.

Mr. Gordon: How many municipalities do we have in Ontario now? It is more than 300?

Mr. Parker: No. More than 600 municipalities do not have municipal property standards bylaws.

Mr. Gordon: More than 600?

Mr. Parker: That is right. We have in excess of 800 municipalities. The 225 that do have bylaws cover 80 per cent of the residential population in the province.

Mr. Gordon: I guess it depends upon whether you have an official plan. If you have an official plan, you probably will have an occupancy bylaw.

Mr. Parker: You may have. As I understand it, a municipality can issue a policy statement, from which an occupancy and maintenance standards bylaw may flow. It may not be necessary for them to have an actual official plan.

Mr. Sifton: I do not know whether I am contributing, but as I understand this, the concern is that there may not be an appeal panel. First, if there is not an appeal panel, it does not meet the act. Second, this board has the right to say the bylaw is not satisfactory for its purposes; it then has the obligation to undertake enforcement on its own. Where a municipality may have a bylaw and is not meeting the law under the Planning Act, presumably one alternative is that the province has to take over responsibility in that municipality.

Mr. Chairman: Mr. Gordon, will you allow a supplementary from Mr. Reville?

Mr. Gordon: Sure.

Mr. Reville: In fact, clause 15(1)(f) suggests that a complaint can go directly to the Residential Rental Standards Board, bypassing the municipal process. My concern is this: I am in a municipality that has property standards bylaws but does not enforce them; it may be missing some of the machinery, such as the appeals panel. Are you going to require the municipality to set it up, or are you going to wait to see how many direct complaints come to the standards board, try to manage the work load there and then go back to the municipality and say, "Okay, boys, I am getting geared here"?

Mr. Parker: Perhaps I can address that question. When we come to discussion of clauses 15a(1)(a), (b) and (c), they outline the activities that will be undertaken in municipalities for which there are no bylaws or where the enforcement of those bylaws is insufficient for the purposes of the act.

Mr. Sifton: I am still not clear, but if a municipality is not meeting the law, then it should or the law should be modified; but assuming it is not meeting the law, there is no place to appeal to. This board receives a copy of the order and does not receive a copy of an appeal; therefore it proceeds. That is what clause 15(l)(e) says. Effectively, it says it receives a copy of the order issued by the property standards officer and any notices of appeal. Presumably, receiving a notice of appeal, it waits until the appeal is held; not receiving a notice of appeal, it carries on based on the order of the property standards officer and not based on the municipality's result.

Mr. Reville: Where does the appeal go in that event?

Ms. E. J. Smith: To the standards board.

Mr. Reville: How can the standards board both issue the order and hear an appeal? That does not make sense.

Mr. Sifton: Under this section, the standards board is not issuing an order; it is receiving an order issued by a property standards officer. It is acting on that order. If an appeal is lodged with the municipality, it waits; but it still has the order sitting in front of it. Where there is no panel to appeal to in the municipality, obviously there cannot be an appeal; it still has the order in front of it that was issued by the officer, and it acts on that order.

Mr. Reville: I assume that someone against whom an order was issued and who had no opportunity to appeal would have pretty good grounds to declare that order null.

Mr. Sifton: Probably no better grounds than they have today.

Ms. E. J. Smith: It might result in the city complying with the Planning Act, which would be excellent.

Mr. Reville: Perhaps, for some of them, expensive.

Ms. E. J. Smith: It is still good. The act is there, and it is there for a reason.

Mr. Reville: You do not want me to talk about the property tax, do you, Ms. Smith?

Ms. E. J. Smith: I would like to see the Planning Act acted upon.

Mr. Reville: So would I. The integrity of the zoning bylaw is something very close to my heart.

I cannot believe I said that.

Ms. E. J. Smith: It is too vague.

Mr. Chairman: Meanwhile, back at the rent ranch.

Mr. Gordon: Where there is no free lunch.

16:50

Mr. Parker: I believe we have completed discussion to the end of page 3. The minister has proceeded to provide for forfeiture of the rent increase.

Subsection 15(6) provides for a landlord to give notice to the minister of completion of the work so that the penalty that had been applied can be removed. As outlined in subsection 7, in making his order the minister will take various things into consideration, such as the nature of the work, the seasonal and financial constraints affecting the ability of the landlord to perform the required work and the availability of persons and materials required to perform the work. Those will all be considered as some of the matters that will be taken into account by the minister.

Subsection 8 speaks to the area of concern raised by landlords when there has been an action undertaken with respect to section 96 of the Landlord and Tenant Act. Where compliance with that order would afford an adequate remedy to the tenants, the minister will not make an order for an additional rent penalty.

Subsection 9 provides some inspection powers to the standards board in the exercise of its powers. On giving adequate and prior written notice, it may carry out inspections at reasonable times to carry out its responsibilities to determine compliance with orders in particular and perhaps to confirm the substantial nature of the standard that has been violated. The provisions regarding entry into the dwelling place are the same ones afforded a property inspector employed by a municipality for purposes of entering under the authority of its occupancy and maintenance standards bylaw.

Section 15a begins to discuss an outline for the adoption of minimum maintenance and occupancy standards in situations where no bylaw has been passed by a municipality under section 31 or where the standards contained in the bylaw that is in force are not appropriate for the purposes of this act. The maintenance and occupancy standards bylaw may apply only to a certain geographic area within a municipality in which there are no residential rental properties. If it deals only with the downtown core, residential properties may not be covered by that bylaw and the standards are not appropriate.

It also applies where the methods of enforcing the bylaw are inappropriate for the purposes of the act, in the opinion of the minister, arrived at after consultation with the council. In some instances, the municipality has chosen to concentrate and prioritize its enforcement activities in one area of the municipality and is unable to carry out certain inspections in certain other areas because of financial limitations. Unless no orders are provided on residential rental properties, the system could not be triggered. In those instances, keeping in mind that consultation would be undertaken with the municipality, the board can develop and adopt minimum maintenance standards.

Mr. Gordon: Does this mean we are going to have different standards for different municipalities in different regions, or am I incorrect in my assumption?

Mr. Parker: Where the board has to develop and adopt standards that deal with major life, health and safety issues, they may vary by degree, the

illustration being that the requirements to have heat provided in a residential rental complex in the southernmost part of the province may be in a different period of the year than in places in northern Ontario, where they may need the heat a lot sooner than they do in Windsor.

The intent in the interim system is to discuss with municipalities, look at representative bylaws in the area for which there are no bylaws--perhaps close by--and develop standards that reflect the localized needs of those areas of Ontario.

Clauses 15a(1)(a) through 15a(1)(c) talk about the development of standards. Having developed those standards, the board would be required to publish and advertise them so the owners of buildings and the tenants living in those buildings have a clear understanding of the standards that are applying.

Subsection 15a(2) requires the board to publish those standards.

Subsection 15a(3) outlines the investigation that may be caused to be undertaken by the board upon receipt of a complaint as noted in the amendments under clause 15(1)(f): "the standards board shall cause such investigation to be made as the standards board considers necessary to enable it to determine whether there exists substantial noncompliance with a substantial maintenance standard adopted by the standards board."

The board, having become satisfied that there exists in respect of the complex or the unit substantial noncompliance with the substantial standard, may cause or give the landlord an order containing the municipal address and legal description of the complex and the particulars of the work that is to be performed. It may also limit the time for applying to the minister for a review of the order.

This is in the instance in the municipality where there is no enforcement activity or bylaw in place, and the Residential Rental Standards Board is issuing an order for the work to be done.

Ms. E.-J. Smith: Could you explain clause 15a(4)(c) to me? I do not understand it. I understand clause (b); it gives them a certain time to do it. I do not know what clause (c) does.

Mr. Parker: Subsection 5 outlines the specific time period within which the landlord must apply. It explains clause (c).

Subsection 5 says, "Where a landlord to whom an order has been given under subsection (4) is not satisfied with the terms of the order, the landlord may, within 30 days of the giving of the order, make an application in the prescribed form to the minister to review the order."

Ms. E. J. Smith: So translated, is it an appeal?

Mr. Parker: That is correct. The provision here is that the landlord in the municipality for which there is no bylaw dealing with occupancy standards, and where the area is not a municipality, will be afforded the same right as if his complex were in an organized municipality with an occupancy and maintenance standards bylaw.

Ms. E. J. Smith: In an organized municipality, is a landlord generally given 30 days to register an appeal? Here we are in a health-

threatening and life-threatening situation, and he has 30 days to think about it. It seems like a long time.

Mr. Parker: I believe 14 days is the period provided within municipalities. The order we are talking of in this instance is the order of the board to determine the rent that is paid. The provision is for 30 days, during which the landlord can come forward and say the conditions of the order are inappropriate. Yes, you are right.

17:00

Ms. E. J. Smith: Are you saying that in municipalities generally you have 30 days and that is why the 30?

Mr. Parker: The information I have is that if no appeals are launched within 14 days after service of an order, the order is confirmed.

Ms. E. J. Smith: Why are we going for 30 here? Do you or anyone on RRAC have any explanation? I am sure that once you appeal, a certain time limit is going to follow. You could decide whether to appeal in less than 30 days. It just seems like an unnecessarily slow beginning.

Ms. Stratford: If I might hazard a guess here, I suspect the 30-day time period was chosen because that is the general time period for appealing orders of the minister under Bill 51. As you have noted, though, it is a longer period of time than would be afforded to a property standards committee. Another reason for that might be that in this case the standards are something new that have just been put in place and advertised in that area. Perhaps a longer period of time is needed because the inhabitants of that community are not used to standards. Beyond that, I do not recall whether RRAC addressed that specific part of the bill.

Mr. Parker: That was the essence of the conversation.

Ms. E. J. Smith: Thank you.

Mr. Parker: The landlord having applied to the minister for a review of the order of the board under subsection 5, the minister may essentially exercise the alternatives that a municipal appeal panel could exercise, where there is a municipality with an occupancy standards bylaw in force; that is, to affirm the order of the standards board, quash the order of the standards board or vary the order of the standards board. One additional provision is to substitute the minister's own order for the order of the standards board.

Subsection 15a(7), as noted, allows for the appeal from the minister's order to the board, meaning the Rent Review Hearings Board, only in the manner and in the circumstances set out in subsection 15a(9), noted on page 7. I will read through these two provisions in their entirety.

"Where the minister, on the report of the standards board is satisfied that an order made under this section has not been substantially complied with in accordance with its terms within the period set out for doing so, the minister, after taking into account the matters mentioned in subsection 15(7)," which were those matters dealing with availability of material and so on, "may, on his or her own motion, make any order the minister is empowered to make under subsections 15(4) or (5), the provisions of which subsections apply with necessary modifications." Those are the rent stay and rent forfeiture penalties.

Subsection 9: "Where the landlord appeals to the board from an order of the minister made under subsection (8), the landlord may at the same time appeal from any related order of the minister made under subsection (6), and where the landlord does so the board shall hear and determine both appeals together." Essentially, that means the Rent Review Hearings Board will hear matters concerning the issuance of an order by the standards board and, subsequent to that, the minister's order to stay or forfeit the rent. There is an opportunity at that point for the owner or the landlord to appeal both situations.

Those are the amendments proposed for sections 14 and 15 of Bill 51. To summarize very briefly, the intent of the amendments is to establish clearly a Residential Rental Standards Board that will, as a prime responsibility, relate substantial violations with substantial standards to rent determination and, in addition, make recommendations towards a longer-term system.

Mr. Gordon: Under section 15a, until the standards have been developed, how are the tenants to go about obtaining relief?

Mr. Parker: In terms of the standards the board will use in those situations?

Mr. Gordon: Until you have standards, yes; where no bylaw is passed under section 31 of the Planning Act.

Mr. Parker: The standards will have to be developed for the board to be able to function.

Mr. Gordon: Until that happens, tenants will have no relief?

Mr. Parker: Tenants will continue to have relief through section 96 of the Landlord and Tenant Act. In municipalities that have occupancy and maintenance standards bylaws, the orders would flow from that.

Mr. Gordon: But the ones that do not?

Mr. Parker: In those municipalities for which there are no bylaws or standards or enforcement, the board will have to develop quickly the standards that would apply in those situations. The majority of municipalities having standards will allow the board in its early days to begin to make recommendations to the minister that will allow for rent penalties where substantial standards are not being adhered to.

Mr. Gordon: Mr. Parker, when you were talking about the number of municipalities in Ontario, you said 225 of them accounted for roughly 80 per cent of the population of the province. Would you say the others are 25,000 or less?

Mr. Parker: I could not say for sure.

Mr. Chairman: Anything else on the amendments to sections 14 and 15? Is there anything outstanding before we move from an explanation of the amendments to the clause-by-clause on Monday?

Mr. Peters: There are two issues yet to be addressed. Yesterday, we were requested to provide to the committee today some explanations on section 60 and the definition of "equity." I see Mr. Laverty nodding. If the committee so desires, Mr. Laverty would--

Mr. Gordon: Was the definition of "equity" not something Mr. Reville was particularly concerned about? He was the one who brought it up.

Mr. Chairman: I do not know how long Mr. Reville is going to be out. He said he was coming back, but I have no idea when.

Mr. Peters: If it is the committee's desire, we can proceed with section 60 rather than the definition of "equity."

Mr. Chairman: Let us start with that then.

Mr. Peters: David Braund, the registrar, will go through some examples of the operation of section 60.

Mr. Braund: While the clerk is distributing that, perhaps I could put some context on this discussion, because it may have been some time since you addressed section 60.

Mr. Chairman: As we get into this complex area you will be gentle with the committee, will you not?

Mr. Braund: We should begin briefly with section 57 of the act. You will recall this is the section which provides that the registered rent, which is the rent generally as of July 1, 1985, is compared with the rent set out in the most recent order issued under previous rent review legislation, which could be under the Residential Premises Rent Review Act or the Residential Tenancies Act.

The process in section 57 is for the ministry to determine whether the registered rent is within a nonsubstantial variation percentage of the rent that would be calculated forward using guideline percentage increases permitted under that legislation since the time of the order. The determination then is whether the notice period, the challenge period, is two years or 90 days.

Under section 58, the ministry issues a notice to the landlord and the tenant setting out the information in the registry concerning each rental unit and setting out what the challenge period is.

17:10

Under section 59, three types of proceedings are envisaged. The first is an application by a tenant to either amend the information in the registry or to challenge the legality of the registered rent as of the actual rent date. The second type of application is an application by a landlord either to amend the information in the rent registry or to certify that the rent is lawful. The third type of proceeding, which is set out in subsection 59(4), is a minister's own motion, following an investigation of the legality of the rent by the ministry, which would either dispute the lawfulness of the rent or seek to certify that it was lawful.

Section 60 deals with the case where any one of those three proceedings has begun and the landlord is asserting that if he had applied to rent review since the time of the last order, if there was a previous order, the rent would have been justified as lawful. I should remind the members that it is expressly set out in subsection 60(4) that if a landlord does not register within the time limit required for registration, the criteria in section 60 are not available to that landlord.

Under section 60, the amendments set out that the process that will be undertaken is to add all rent increases that would have been permitted under previous legislation and to undertake a review as would have been undertaken under the Residential Tenancies Act; in other words, a retrospective rent review.

Members will also notice it refers to prescribed rules. At this time, the regulations subcommittee of RRAC is considering the details of those prescribed rules. I have reviewed with the subcommittee the examples I will present to you today, and I have its endorsement to present them to you today. The subcommittee had no difficulty with these examples. It should be noted that there may be further details when we come to clause-by-clause, and I may not be able to answer questions if you change the facts in these examples to other situations on which there is not yet total agreement.

Before I begin to review these with you, let me say that I have been a commissioner and a field commissioner with the Residential Tenancy Commission for five years and so these things come much easier to me than to most. If you have any questions, please break in and ask them as we go along, because I am used to the jargon and perhaps you are not.

The basis of this whole procedure is RRAC's agreement that a landlord who has a rent that is apparently unlawful may be in that status only because of a technical violation of the past law. It will be remembered that there was substantial testimony before the Thom commission and in other public arenas that the present system is cumbersome and frightening to both landlords and tenants. In those circumstances, many applications that perhaps should have been made to get the approval of an order were not brought.

I will turn now to the examples. In example I, which deals with subsection 60(1), we have an order that was issued in 1981 showing that the rent for the particular rental unit was a maximum monthly amount of \$440. The registered rent as of the actual rent date, July 1, 1985, is \$600, and it was first charged on June 1, 1985.

The landlord put a new roof on the building in late 1983 at a total cost of \$10,000. If the rent was challenged, he would seek to justify the rent he is charging based on his costs, which he believed justified the higher rent. Using straight guideline increases, the rent would have been \$555.49 a month. An additional fact that comes into play at the end of the example is when the tenant moved in and what rents were paid during the period of time up to his application.

The tenant then brings an application under section 59 of the act to challenge the legality of the rent and under subsection 92(6) of the act to seek a rent rebate. The landlord responds to that under subsection 60(1) and brings forward information related to 1983 and 1984. That information is brought forward to effect one rent increase of the four that took place between the order and the actual rent date.

Of course, in every situation you will be looking to what the operating cost increase was. The ministry was tremendously concerned with the fact that in a retrospective application it may be very difficult to obtain the bills for past periods in order to do an actual analysis. It may involve going to a previous landlord, and if it goes back far enough, it may involve records that have been disposed of.

In those circumstances, we discussed with the advisory committee whether a fixed operating cost allowance might be appropriate, much as we would have

under the new system. The committee has considered a fixed operating cost increase of the guideline under the Residential Tenancies Act or the Residential Rent Regulation Act; in other words, eight per cent for a brief period and then six per cent for all the rest of the time, minus one per cent.

In this example, taking the 10-unit building and using the rents at that time, times 12 months, times five per cent, the operating cost increase allowed would be \$2,966. We would then turn to the new roof capital expenditure. According to the treatment that has been given under the Residential Tenancies Act, there would be an allowance calculated using the expected life of the improvement to the building, an interest rate that is actual if the landlord borrowed the money to do the reroofing and the total cost of the reroofing. In this case the allowance is \$1,801.

17:20

The justified rent is affected by the two items, the operating cost increase and the capital expenditure, and the new rent would be determined to be \$534.11 in 1984. With one further increase before the actual rent date, it would come up to \$566.16, and that would be the amount set out in the rent review administrator's order. In this case, the justified rent is higher than the rent calculated with purely guideline increases but less than the actual rent, so the justified rent is certified to be the lawful rent in the order.

You will recall that the landlord also applied for a rebate, and on the top of the second page you will see that the normal calculations for a rebate are set out for each period of time. The difference between the amount paid and the amount that is lawful is calculated and multiplied by the number of months. In this case, the total rebate that would be ordered by the administrator for the landlord to pay the tenant would be \$518.41.

Mr. Chairman: Finally, words are translated to numbers and we see the bill in action.

Ms. E. J. Smith: I have one question. You are taking the final figure you arrived at, \$566.16, and basing your rebate on that. However, if you are going up four per cent, six per cent and five per cent a year, the year before the allowable rent would have been lower than that, so they should be getting back more that other year.

Mr. Braund: In this particular case, the tenant only moved in November 1985.

Ms. E. J. Smith: So if I had been the tenant through the whole thing, my rebate in 1984 would be more, rather than just using that final figure.

Mr. Braund: Exactly.

Mr. Chairman: Mr. Reville thinks the roof should last longer than 10 years.

Mr. Reville: No.

Ms. E. J. Smith: This is an assumption.

Mr. Braund: Under the Residential Tenancies Act, guidelines were published, and depending on the type of roof, it was either 10 or 15 years.

Mr. Reville: That is right. This roof is made of grass or straw, and it lasts for only 10 years.

It strikes me that the landlord who failed to go to rent review because he was intimidated by the process will not be much comforted by this process.

Ms. E. J. Smith: But he has to go.

Mr. Reville: He has to go, because now he is in trouble. He was in trouble before, but nobody thought so.

Mr. Braund: You will recall that he does not have the rigours of the hearing now. This is a more user-friendly system with the rent review administrator.

Mr. Reville: The administrator figures all this out.

Mr. Braund: Yes.

Mr. Reville: That is a good thing to know. What happens if either of the parties does not like this figuring? Do they go to a hearing?

Mr. Braund: They may go to a hearing by appealing the order of the administrator, yes.

Mr. Reville: Where I got lost in your example was line 1. No, that was not it. Why do we automatically increase by the statutory guideline for 1982 and 1983 but do something different in 1984? I cannot figure that one out. I missed something there.

Mr. Braund: If the landlord had been undertaking capital expenditures every year since the last order, none of the full guidelines would apply. In essence, there would be a four-year rent review, and each year you would give five per cent as the fixed operating cost allowance.

Mr. Reville: It is because he put the roof on that in 1984 that he gets operating cost allowance.

Mr. Braund: That is right. He is picking only that one year, because that is the year he should have made the rent review application.

Mr. Reville: What sort of evidentiary guidelines are there? This tenant showed up in November 1985 and has no way of knowing whether that roof has been on there for 100 years or three minutes.

Mr. Braund: The subcommittee has been discussing that. Under the Residential Tenancies Act the normal procedure was to file a bill, and it was not a great difficulty because it was within a current period. The tenants would have been aware of the repair in most cases. They might not know about a boiler repair, still, but they know--

Mr. Reville: They tend to know about that when it is done in the winter.

Mr. Braund: Yes, but generally the bill was required for any major item, certainly. We have discussed briefly whether financial statements would be sufficient proof, and I believe the feeling on both sides is that for repairs and maintenance and capital expenditures, it will still be the bills--

Mr. Reville: So there is a bill here from a roofer that says \$10,000 on it. Can you inquire how far that was at arm's length?

Mr. Braund: It is a normal part of rent review to ask that question.

Mr. Reville: If it says Billy Joe MacLean on it, what do you do? We do not talk about that. Forget that business. Leave it be.

Ms. E. J. Smith: Total honesty we will never achieve.

Mr. Chairman: All right, Mr. Reville?

Mr. Reville: I now understand this, Mr. Chairman, and I dislike it profoundly, but that is not part of this session today.

Mr. Chairman: No. That is for the clause-by-clause, and the amendments that you have a right to make.

Ms. E. J. Smith: We will expect to hear from the member.

Mr. Chairman: Okay? Example II.

Mr. Braund: I am quite prepared to lead you through example II if you have any questions.

Ms. E. J. Smith: Is there anything different in it?

Mr. Braund: Example II is different from example I in that there is a financial loss that was caused by a purchase. If the members are interested in what the treatment of that would be, I will be glad to go through it. Otherwise, I can jump to example III, which is a rather more different circumstance.

Mr. Chairman: What is the wish of the committee?

Ms. E. J. Smith: Could I ask you one thing about the financial loss? These things get all muddled in one's mind, but we do have a clause in there with a time frame--I believe 1982--on financial loss. After that bill was in, you were supposed to have assumed that the person figured the loss in the purchase price. Do you remember that?

Mr. Braund: Vividly. In 1982 the Residential Complexes Financing Costs Restraint Act, 1982 was passed, and that act provided that there was a maximum of five per cent rent increase allowed for increased financing costs resulting from a purchase of the complex. That provision will be incorporated in the rules that apply in this retroactive--

Ms. E. J. Smith: So it will be the same.

Mr. Braund: Yes.

Mr. Reville: I wonder why that situation is in our minds today, and yesterday and the day before.

Mr. Peters: Mrs. Smith, you may have been referring to section 88, talking about the chronically depressed rent. That is where the date of November 1982 appears. One is ineligible to petition for relief under that section if the building had been sold after that date of November 1982.

Ms. E. J. Smith: Okay.

Mr. Braund: Example III deals with subsection 60(2), which provides that any service or facilities that have been added or discontinued on or after July 29, 1975, and August 1, 1985, that affect the rental unit may be considered on an application. The example highlights the fact that the landlord does not need to choose a claim period in respect of an added service or facility. If we take the most common and understandable circumstance, it would be the addition of a parking charge where the unit previously had a tenant with no car and a new tenant moves in with a car and agrees to pay the building average charge for parking, which is historically lawful. There would be absolutely no difficulty with that.

17:30

The more difficult circumstance is shown in example 3, where something such as new storage lockers are being built for the building. This is a rather expensive set of storage units.

Ms. E. J. Smith: That is what I was going to say. It costs as much as storing things themselves.

Mr. Braund: This is a new room that had to be created, with cedar shelving, I suppose, and wonderful locks and so on.

Mr. Reville: It has a couple of Jacuzzis in it.

Mr. Braund: In this case, the landlord does not forgo any of the guideline increases. One simply calculates the separate charge that would have been approved by the commission if it had had this before it on an application. Members will notice that using a 15-year life for this capital expenditure and 13.5 per cent, the notional separate charge for even this expensive an item is only \$10.19 a month.

Once again, the order would reflect the guideline increases plus this notional separate charge and an order would be issued certifying that as the lawful rent. If a rebate was owing, it would be as much as in the first example.

Ms. E. J. Smith: That is really quite simple.

Mr. Reville: Are we allowed to resent the use of "only"?

Mr. Braund: Of what?

Mr. Reville: You said it is "only \$10.19." I think that was an editorial remark.

Ms. E. J. Smith: That is because it is such an expensive locker, probably gold-plated.

Mr. Chairman: Any questions on example 3?

Mr. Reville, when you were out, the committee felt it did not want to deal with the definition of "equities" until you were here.

Mr. Reville: That is very thoughtful of you. I was hoping you would have that done before I came back.

Mr. Chairman: We are about to do it. Is that you, Mr. Braund, or is that someone else's specialty?

Mr. Braund: No. Thank you.

Mr. Chairman: Thank you, Mr. Braund.

The specialization and division of labour have risen to an art form in the Ministry of Housing.

Mr. Laverty: I had hoped they would have done this throughout the presentation. However, this is our day for diversity in presentation styles.

Mr. Chairman: It is gratifying to know that people do not always live up to your expectations either, Dr. Laverty.

Mr. Reville: Should I warn Dr. Laverty that whatever he shares with us today is going to form the basis of my question to the minister on Monday?

Mr. Laverty: I shall so inform the minister.

Mr. Chairman: I thought that was Mr. Peters's territory?

Mr. Reville: We got good answers for him for today.

Mr. Chairman: Dr. Laverty, we look forward to your explanation.

Mr. Laverty: Some time ago, the committee raised the question of how equity is dealt with in the regulations we were drafting under the act. Today I am going to outline schematically the variations on that theme in the regulations.

As I note in the introduction, the concept of equity is important in the interpretation of two sections of the act, sections 77 and 78. I will outline each of these and explain why some differences in approach are necessary between the two sections.

In section 77, we are defining "equity" as a base to which the rate of return is applied in determining the economic loss to be eliminated. There are three cases to be considered: first, where the building is owned by its builder; second, where the building has been purchased from a merchant builder or before April 18, 1986, and those are the two cases that are referenced in subsection 76(7); third, where a building has been purchased otherwise.

The act indicates the award of economic loss is made only for post-1975 buildings. To take the first case with the original owner, the equity base is equal to the land value plus the building cost, plus the capitalized financial loss, minus the allowed debt. The land value, in turn, is appraised at the higher of market value or cost as of the building permit date where, in turn, the market value is the appraised value and the cost would be equal to the purchase cost plus two years of carrying costs. These treatments of land value are found in the Rent Review Advisory Committee report, recommendations 1 and 2 on page 4, in case you wish to go back to that source document to review it.

In turn, the purchase price is a matter that is further defined in the regulations, and that goes on for some period of time. We have left out that particular detail. If you want to raise questions about what that detail is, I can attempt to deal with it.

The building cost is defined as the construction cost plus the indirect cost, plus the initial rent-up costs, each of which also has further detail in terms of its definition, and the capitalized financial loss, as I explained in the exposition on section 77, is equal to the financial loss in the first year, plus financial loss in the second year and so on--in other words, the sum of the financial losses in each of the individual years--and the allowed debt, which I also referred to in the discussion of section 77. There is currently a discussion within RRAC as to whether the 85 per cent rule would apply in the case of new buildings as it does to purchases of existing buildings.

Mr. Chairman: Those three dots do not stand for "tending to infinity," do they?

Mr. Laverty: No, only until the financial loss is eliminated, which we hope will be some time before infinity.

Mr. Reville: Speaking of infinity, does not financial loss become finite if we ever pass Bill 51 because you will not have to capitalize it any more; you will just go and get it?

Mr. Laverty: Financial loss, as awarded through the rent review system, will not be infinite. Financial losses that may be experienced in the market could conceivably be infinite, although--

Mr. Reville: I do not like you to tell me that every time. I am trying to determine what might happen. If you can apply for financial loss as a way of increasing your rent, would you not then capitalize it any more? Of course, you still have to collect it.

Mr. Laverty: Yes.

Mr. Reville: It is in the unlikely event that you cannot collect rent in this market.

17:40

Mr. Laverty: That is the explanation of the initial owner. As I indicate, each of the starred items has another list of items which we have left out of this summary if we wish to pursue that at any length.

The second case involves the merchant builders and sales occurring before April 18, 1986, where equity is simply defined as purchase price plus a capitalized financial loss minus the allowed debt, so it is a much simpler calculation because you do not have to go through a long itemization of cost factors.

Ms. E. J. Smith: Where is that point under discussion?

Mr. Laverty: Where? On the first page. It is at the bottom of the first page. As I indicated, in cases of financial loss, debt is allowed only up to 85 per cent of the acquisition cost. What is under discussion in RRAC is whether, on the construction of a building, there should also be an 85 per cent rule; that is, no more than 85 per cent of the construction costs and land costs can be debt-financed and allowed as debt. It is essentially the discussion that is currently ongoing.

Ms. E. J. Smith: In effect, I build an apartment building, thinking if you subtract the allowed debt--

Mr. Laverty: It is because we are determining equity here.

Ms. E. J. Smith: I am going to build an apartment building. The land value is what you pay for the land; the building costs are what you pay for the building. Capitalized financial loss is what I lose while I am getting my tenants and it is sitting half empty. You capitalize that. Then we have the allowed debt. Would that, in a sense, be your mortgage, which you have taken for 85 per cent? Is that what you are saying?

Mr. Laverty: Yes. The allowed debt would normally be in the form of a mortgage.

Ms. E. J. Smith: As a matter of interest, what happens to the interest on the allowed debt?

Mr. Laverty: That is allowed for separately, because what we are doing here is defining the equity on which you are going to be allowing an equity rate of return. The amount that is debt is treated separately.

Ms. E. J. Smith: Okay. You do not get a rate of return on your mortgage.

Mr. Laverty: No, you get only the mortgage payments. They are treated differently. Okay?

Ms. E. J. Smith: I think so.

Mr. Laverty: I think I covered case 2, which is merchant builders and cases of other purchases. As I have indicated here, that also is currently under discussion and there is not a great deal I can report here, but we will subsequently, as to the recommended treatment.

Ms. E. J. Smith: What did you say was the problem with other purchases?

Mr. Laverty: When you have a building that is built in 1987 and is sold 10 years later, the question arises of whether a rate of return will be calculated for the new owner and, if so, how it will be calculated. That question is currently under discussion. We do not have an answer for the committee today as to what our recommended course of action is.

Ms. E. J. Smith: Yes, because in theory this would tie into the flips that went on in Toronto where the price got exaggerated; right? If you then allow a rate of return, there is nothing wrong with all those flips.

Mr. Laverty: That is one of the concerns. If one were to allow a rate of return to a new owner, you would have to consider how you would impose limits on such a rate of return so you would not be encouraging the sale of the building for an inflated value.

Ms. E. J. Smith: Ordinarily, if you buy something, you buy it because it is a good bargain. If you own a building and you are getting a fair rate of return, then I should buy it for what it is worth. Why should I be able to buy it for more than it is worth and put up the rent?

Mr. Laverty: These are the problems we are wrestling with. We hope to come back with a direction.

Ms. E. J. Smith: Because of the abuse that did occur, I can buy it from you and then you can buy it back from me and then we will both sell it to Joe and by then the tenants will be paying three times the rent and we will all go home happy. There has to be something built in to prevent that.

Mr. Chairman: It is the same old story; Joe gets stuck with it.

Mr. Laverty: I will proceed with the section 88 treatment. At present, there are two definitions under consideration in section 88 for the definition of equity, one of which has been put forward by one group of people within the advisory committee, which inflates to the current value--that is, inflates by the use of the consumer price index--the acquisition cost of the building, less the allowed debt which was initially on the building, and would add any accelerated mortgage paydown; that is, if the landlord put in \$10,000 or \$20,000 of his own to pay down the debt in advance of the normal debt payment stream, that would also be considered as additional equity he had put into the project.

The second definition of equity uses what I refer to here as an adjusted rent roll multiple minus the current amount of allowed debt. The adjusted rent roll multiple is calculated on the basis of a complete adjustment of rents to the threshold value--that is, 20 per cent below the equivalent accommodation--and that one utilizes the average ratio of selling price to the gross rental revenue of similar buildings in the area. So if buildings in the area typically are selling for seven times their total rent revenue, then you would use seven times the adjusted rent roll less the amount of debt outstanding in determining equity.

Mr. Cordiano: You would arrive at the multiple by determining what other buildings have sold for?

Mr. Laverty: Yes, the second of the two alternatives under consideration would be looking at the actual sales of buildings occurring in the rental market.

Mr. Cordiano: Are both concepts viable--not viable, but if you are going to go with one, would you use both and would they be equal?

Mr. Laverty: They would be equal only by coincidence. No, it is a matter of a choice being made between these two alternatives.

Mr. Cordiano: Once you have made that choice, you will stick to one of the methods.

Mr. Laverty: Yes, we will be recommending one of these two alternatives or some variation of them for final adoption and then that one alternative would be the base on which section 88 equity would be calculated. We would not have a rent review system that had two alternatives with the choice being made on each individual case as to which one we would use. We would not do that; we would have one. It is simply to let you know what is the range of possibilities currently under discussion.

Mr. Reville: Given that there is some continued discussion about the equity base, how does that correlate with the information in the York University study and the frequent assertions that this particular relief would be available to only one to two per cent of the stock? Has that changed that correlation at all?

Mr. Laverty: No. The York University calculations were done using these two definitions. If you look at the appendix to the supplementary York study, you will see each of these two formulas reproduced in much greater detail, because we have done a legal drafting.

17:50

Mr. Reville: Is there any way of determining which of the formulas creates more eligible units?

Mr. Laverty: Yes.

Ms. E. J. Smith: More equity?

Mr. Reville: No.

Ms. E. J. Smith: You mean more than one per cent or two per cent. I see.

Mr. Laverty: The answer is somewhere in these documents; I just have to find the right one for you. It is always good to bring a good supply of documents with you.

Ms. E. J. Smith: Definitely.

Mr. Reville: You can never have enough.

Ms. E. J. Smith: I threw out three feet of them yesterday.

Mr. Laverty: The answer to that question depends on whether you are talking about how many buildings would qualify or how many units would be involved.

Mr. Reville: For the sake of argument, why do we not pick units involved?

Mr. Laverty: I will give you both and then you will know.

Mr. Reville: One of the things I get too much of is information. I just want to know how many units are involved.

Mr. Laverty: Okay. If you are using the unit approach, the first of the definitions there would yield one per cent of the units and the second definition would yield 2.2 per cent.

Mr. Reville: I will give you a hint which one I like.

Mr. Laverty: In terms of the number of buildings, the result actually reverses. There are more buildings that qualify under the first definition than under the second. That has to do with the relative size of the buildings; they are much smaller.

Ms. E. J. Smith: Therefore, the first definition would likely be more helpful to the small landlord.

Mr. Laverty: Yes, more of them would qualify.

The differences are small enough in the study that in terms of the

normal variation that statistics have, strictly speaking they are not significantly different. They are in the same ball park. One may be slightly higher than the other as the actual study comes out, but it would be pressing the data a bit too far to say the difference was significant.

Ms. E. J. Smith: You lost me.

Mr. Reville: More important, we lost some people in this difference. While it is statistically insignificant, it will be incredibly significant for those people who are caught that would not otherwise be caught.

Ms. E. J. Smith: It is double the number. If I see one per cent to two per cent, you have doubled the number of units.

Mr. Laverty: Yes. When you take a sample, for example, if you take a public opinion poll, it will often report the result that 26 per cent of people said they liked brand X, but it will say the result is accurate within plus or minus. That is what I am saying here. If you are dealing in differences of one per cent on units, that is probably not significant from a statistical point of view. We are talking about very small numbers of units. To put a great deal of reliance on the fact that one yields slightly more than the other is probably overstating the difference.

Ms. E. J. Smith: Okay. I understand.

Mr. Reville: Is there any way of determining the economic situation of the folks who live in equity base T or equity base L? Is there any statistically significant difference there? "Yes," he said; "here is the answer."

Mr. Laverty: That would be more difficult. The data from the York study dealing with the financial position of tenants were run on only the 20 per cent rent discount criterion, not on the other criteria, particularly the equity criterion. At this point, we do not have that answer.

Ms. E. J. Smith: Did York express any preference between the two bases or the two equations?

Mr. Laverty: York was not asked to. The two definitions were produced in consultation with people on our advisory committee. York was to run them and this is the result. It was not part of its terms of reference to recommend a system to us.

Ms. E. J. Smith: I see.

Mr. Laverty: To conclude on the differences in the definitions between the sections, while it would be consistent and might theoretically be desirable to define equity in section 88 in the same way as in section 77, the information required to implement the section 77 approach would not be available in a great many cases where chronically depressed rent relief is being sought.

The major problems are the unavailability of detailed costing of construction going back 20 or 30 years and of detailed records of capitalized financial losses for the same period. In view of these practical difficulties, both tenant and landlord members of RRAC agreed that some alternative evaluation method would be required, and RRAC has not decided between the two approaches we have indicated. In part, that is the complexity involved in

defining equity and why we have a strong preference to do it in regulations rather than to attempt heroically to reduce it to a small statement in the act.

Mr. Reville: I observe once again that five months after this bill was tabled, it is still under discussion. It is a very curious process. I am just making a process comment that is of not much interest to anybody except myself.

Mr. Chairman: Is there anything else? That is it. We move into clause-by-clause discussion on Monday.

I would like to thank Mr. Parker, who is not here now but who helped us today, Mr. Braund, Ms. Stratford, Ms. Hogan, Mr. Sifton and Mr. Laverty for helping us fight our way through the explanations of the amendments. We appreciate your assistance. On Monday, despite my absence--my Premier (Mr. Peterson) beckons me to the Sault--the committee will begin the process of clause-by-clause examination of the bill.

The committee adjourned at 6 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
MONDAY, NOVEMBER 3, 1986

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsview L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, E. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Substitution:

Knight, D. S. (Halton-Burlington L) for Ms. Caplan

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Richmond, J. M., Research Officer, Legislative Research Service
Fader, J. A., Deputy Senior Legislative Counsel

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)
Laverty, P., Director, Rent Review Policy Branch, Rent Review Division
Peters, F. H., Executive Director, Rent Review Division
Stratford, L. A., Senior Solicitor, Rent Review Division

From the Rent Review Advisory Committee:

Hogan, M., Co-Chairperson
Grenier, W., Co-Chairperson

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday, November 3, 1986

The committee met at 3:49 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

The Acting Chairman (Mr. Epp): I call this committee to order. The other day we agreed we would start clause-by-clause discussion of this bill. I am not sure how far we will get. Nevertheless, we will try to make progress. I understand the parties are familiar with the motion to use the reprinted version of the bill.

Mr. Reville: I will make that motion, but I would like to make a couple of procedural suggestions so that we can arrive at some understanding of how today's business will go.

In view of the fact that a number of members of each of our caucuses are in the north today, I would propose, if we get to a section that is controversial, that it be held down and we can dispense with any of those sections that are not controversial. Is there agreement on that?

The Acting Chairman: Does anyone have problems or difficulties with that? No one is disagreeing, so we can proceed on that basis.

Mr. Reville moves that the committee, in its clause-by-clause examination of Bill 51, take into consideration the bill as reprinted, showing amendments proposed by the Minister of Housing.

All those in favour of Mr. Reville's motion?

All those opposed?

Motion agreed to.

On section 1:

The Acting Chairman: Let us start with section 1, the definitions section. We have gone over this before. Are there any questions?

Mr. Gordon: I would like to go over "economic loss" once more.

Ms. E. J. Smith: We have not decided procedurally whether we want every motion read.

Mr. Reville: We do not have to read any of the ones that are printed.

Ms. E. J. Smith: That is one of the things I wanted to know. I have them and I am prepared to read them. If not, I will move them as they come along. I assume that if someone finds it controversial, he will speak up and move that it be set aside.

The Acting Chairman: I presume so. We are discussing the amendments.

Mr. Gordon: Perhaps Ms. Smith will move the amendment first and then we can adopt it.

The Acting Chairman: Ms. Smith moves that the definition of economic loss be struck out and the printed version put in its place.

Mr. Gordon: Would the ministry go over those two, economic loss and financial loss, once more, please?

Mr. Laverty: Very briefly, Mr. Gordon, the economic loss experienced by a landlord is the amount by which the landlord's rate of return falls below the rate of return that will be specified in subsection 77(1), but does not include the financial loss. It is therefore the return between the break-even point and the point at which the building will be earning the full rate of return that is specified in subsection 77(1).

The financial loss is simply the excess of the costs experienced by the landlord over the revenues he collects in a given accounting period. The costs and the revenues, of course, will be defined under the act.

The Acting Chairman: Are you pleased with that?

Mr. Gordon: Yes, I am very pleased.

The Acting Chairman: You have heard the explanation. All those in favour of Ms. Smith's motion?

All those opposed?

Motion agreed to.

Mr. Reville: On a point of order, Mr. Chairman: Does that mean we have already carried the definition of "board"?

The Acting Chairman: No. We are just doing the ones that were amended.

Mr. Reville: Why do we not do them one by one?

Interjections.

The Acting Chairman: That has been carried. Let us do the one on "board." Do we have a motion on the definition of "board"?

Ms. E. J. Smith: It was not changed.

The Acting Chairman: It was not changed. I did not think so, but I just wondered.

Ms. E. J. Smith: It is not changed. The question is whether we are moving everything or just the changed amendments.

The Acting Chairman: Okay. What is your wish? Do you want to move every single one, or just the amendments?

Mr. Reville: We have to do that in any event, do we not?

The Acting Chairman: We could move the whole section without moving the amendments. All you do is move it as amended.

Ms. E. J. Smith: We could the amendments and then move section 1.

Mr. Reville: Because I know that I want a number of these definitions set aside, it might be easier to knock them off one by one.

Ms. E. J. Smith: Even though they are not amended.

Mr. Reville: Yes.

Ms. E. J. Smith: Okay.

The Acting Chairman: Okay, that is fair game.

We have now approved "economic loss" and "financial loss." Let us go back and take "board." The definition for "board." It has been moved that it be--

Mr. Fader: May I say a word?

The Acting Chairman: Yes.

Mr. Fader: When the reprint does not include an amendment--the definition of "board," for instance, has not been changed--the normal procedure would be to ask the committee, "Shall the definition of 'board' stand as part of the bill?" rather than to indicate that there was a motion of some sort.

Mr. Reville: That is right.

The Acting Chairman: Okay. Shall the definition of "board" stand as part of the bill?

Agreed to.

Interjections.

Mr. Reville: I think the chair can do that.

The Acting Chairman: That has been carried.

Shall the definition of "landlord" stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "mail" stand as part of the bill?

Agreed to.

The Acting Chairman: "Maximum rent"?

Mr. Reville: I would like that set aside.

The Acting Chairman: Any discussion with regard to setting it aside?

Agreed to.

The Acting Chairman: On "minister," we are not talking about the minister; we are talking only about the definition of "minister." We do not want anybody to move to set the minister aside. Shall that definition stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "ministry" stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "mobile home" stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "mobile home park" stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "nonprofit co-operative housing corporation" stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "prescribed" stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "rent" stand as part of the bill?

Agreed to.

The Acting Chairman: Ms. E. J. Smith moves the amendment to the definitions of "rental unit" and "residential complex" as proposed in this bill.

Mr. Reville: I would like that part stood down, please.

The Acting Chairman: Okay. Is it agreed that we stand that down?

Hon. Mr. Curling: That was "rental unit"?

The Acting Chairman: "Rental unit," on page 3 of Bill 51.

Shall the definition of "residential complex" stand as part of the bill?

Mr. Reville: Stand it down.

The Acting Chairman: Stand it down?

Agreed to.

The Acting Chairman: Shall the definition of "services and facilities" stand as part of the bill?

Mr. Gordon: Stand it down.

The Acting Chairman: Stand it down?

Agreed to.

Ms. E. J. Smith: That is stood down too?

The Acting Chairman: Yes. Going to page 4 of the bill, shall the definition of "statutory increase" stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "subsidized public housing" stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "tenancy agreement" stand as part of the bill?

Agreed to.

The Acting Chairman: Shall the definition of "tenant" stand as part of the bill?

Agreed to.

The Acting Chairman: That deals with section 1 of the bill, with a number of sections stood down. Is there any further discussion on section 1?

Mr. Gordon: I would like to move a motion at this time, and perhaps the government would like to take it under consideration and we would stand it down. I would like to put it on the record at this time.

16:00

The Acting Chairman: A notice of motion? Do you want to submit an amendment?

Mr. Gordon moves that section 1 of the bill be amended by adding thereto the following definitions:

"extraordinary operating costs" means a change in tax or a change in one component of the building operating cost index or a change in one additional ongoing cost component that creates a variance of 50 per cent of the building operating cost index component or a change equal to one per cent of revenue.

"retirement residence" means a residence established primarily to provide living accommodation for retired persons, that consists mainly of rental units in which residential care or extended care is not a primary feature, notwithstanding that the living accommodation may be specifically designed for active retired persons.

"'services and facilities' includes,

"(o) prescribed services and facilities respecting retirement residences."

The Acting Chairman: Do you have copies of that?

Mr. Gordon: Yes.

Hon. Mr. Curling: You are introducing it and are asking us to stand it down.

Mr. Gordon: Yes, stand it down.

The Acting Chairman: We have an amendment to section 1 of the bill as proposed by Mr. Gordon, and he has asked that we stand it down. We will agree to that and we will discuss it the next time this section is discussed. In the meantime, the clerk will circulate copies of that amendment so that everyone has the benefit of it.

Motion stood down.

The Acting Chairman: We will just break for a minute or so.

Interjections.

On section 2:

The Acting Chairman: We will start with section 2. Are there any questions with respect to subsection 2(1)?

Mr. Gordon: I thought I had all my amendments here with me. It turns out that I picked up the wrong package, which has only one or two in it. I asked my office to send up the amendments that we will be making to this bill.

The Acting Chairman: Mr. Gordon, can we go on the assumption that we will approve these and, if you have an amendment, we will go back and open that one up? That is probably the only way we can do it.

Mr. Gordon: That is what I want to know. No, that is not the only way we could do it.

The Acting Chairman: We have two choices. We can leave you to hold us up and not do anything until you get the amendments or we can go on the assumption that we can go back and do them once you get your package.

Mr. Gordon: Exactly. I am inclined to take that other choice.

The Acting Chairman: I suggest that we take the second choice because it is the way we probably should go under the circumstances. Is that fair enough?

Mr. Gordon: Yes.

The Acting Chairman: We will approve it on the basis that when Mr. Gordon gets his package and has some amendments, we will go back and cover this section. Agreed.

Subsection 2(1)? Subsection 2(2)? Subsection 2(3)?

Mr. Gordon: I think each one should be read.

The Acting Chairman: It is going to take some time.

Mr. Gordon: I am not prepared to accept it in any other way.

Ms. E. J. Smith: Fine. We just agreed to the other so--

Mr. Gordon: It seems that is a fair way to go about it.

Ms. E. J. Smith: That is fine. We asked what you wanted and we agreed to the other way.

Mr. Gordon: It seems as if we are in a hijacking situation here. I am trying to put some rationality into it.

Ms. E. J. Smith: We were quite agreeable at the beginning of this meeting to read or not to read them, as the members wished. We are quite prepared now to have them to read, but I am not prepared to be told we are hijacking.

Mr. Gordon: I am prepared to discuss that point.

Mr. Reville: We should discuss it because I am of the understanding that we do not read a section unless there has been an amendment to it.

Ms. E. J. Smith: I am prepared to do anything except fight over silly things.

Mr. Reville: You have had many years of experience.

The Acting Chairman: We have done it both ways. The general thrust when you do these bills is that you do not read the section unless there is an amendment; otherwise it is accepted as printed in the bill. If you want to change this--

Mr. Reville: We do not have any objections to sections being stood down.

The Acting Chairman: When I read a section, I can give you a second before I go on to something else. I can give you a chance to take a look at it without separately reading each subsection.

Mr. Gordon: That is what I want. I want the time to read each section as we go through it.

The Acting Chairman: Obviously you have made notes in your own bill as to what you want to discuss and draw attention to and maybe made amendments, whatever the case may be.

Mr. Gordon: That is right.

The Acting Chairman: Perhaps I can give you a second after I read the subsection to think about it and then maybe we can go on to the next one.

For efficient use of time, that will probably expedite things more than reading each section.

Let us go back and do subsection 2(1). Is it carried? Carried. Is subsection 2(2) dealing with conflict carried? Carried. Subsection 2(3) dealing with provision in written agreement?

Ms. E. J. Smith: I will move subsection 2(3a) when the appropriate time comes. It is an attention. Is it the wish of the committee that we read this out? Pardon me, there is an amendment to subsection 2(3) also.

The Acting Chairman: Do you have an amendment for subsection 2(3a)?

Ms. Smith: It is for subsection 2(3).

The Acting Chairman: Ms. E. J. Smith moves that subsection 2(3) of the bill be amended by striking out "first" in the fifth line and inserting in lieu thereof "second" and by striking out "(d)" in the eighth line and inserting in lieu thereof "(d) or (e)".

The Acting Chairman: The amendment has been moved. Do you want to speak to it or does anyone else have any comments?

16:10

Mr. Reville: Are we on subsection 2(3) as amended?

The Acting Chairman: Yes.

Mr. Reville: I have no comments at this time.

Mr. Chairman: Is that carried?

Hon. Mr. Curling: Did someone say something about standing down?

Mr. Reville: We have the right to reopen if we get nervous.

Ms. E. J. Smith: That is right. I have subsection 3a as well. In carrying 3, I do not wish to neglect to point out that there will be an addition to it as well.

The Acting Chairman: All right. Is it carried?

Mr. Gordon: On that point, let us be very clear that as we go through this, we can bring forward any motions we have on the various sections tomorrow or the next day or whatever day it is.

Ms. E. J. Smith: I thought you were sending your things through now?

The Acting Chairman: Mr. Gordon, to be honest, I think the understanding was that you would bring those forward today, that you would let us know about the sections we have covered rather than some time in the future so that we can progress with it.

Mr. Reville: In that case, we had better stand it down.

Mr. Gordon: Yes.

Ms. E. J. Smith: Stand what down? The whole thing?

Mr. Reville: Stand down subsection 3a.

Ms. E. J. Smith: I do not understand what we are doing now.

Mr. Reville: You moved subsections 3 and 3a, did you not, Mrs. Smith?

The Acting Chairman: She has not yet moved subsection 3a.

Ms. E. J. Smith: I have not moved subsection 3a yet.

The Acting Chairman: Will we stand down subsection 3?

Mr. Reville: Yes.

Ms. E. J. Smith: Are we standing down subsection 3?

Motion stood down.

Ms. E. J. Smith: I move section 2(3a) as amended and printed. Do you wish it read? Is that the way we are going?

The Acting Chairman: I think we should.

Mr. Cordiano: No. Wait a minute. If it is already as amended and printed--

The Acting Chairman: Ms. Smith moves that section 2 be amended by adding the following subsection:

"(3a) subsection 3 does not apply to a tenancy agreement that provides for the payment at the commencement of the term of the tenancy of a lump sum as the basic rent for the rental unit for a term of 10 or more years and that includes provision for the payment by the tenant on a periodic basis of additional amounts related to the cost of maintenance of common areas and other miscellaneous expenses associated with the rental unit.

Motion agreed to.

Mr. Cordiano: Mr. Chairman, on a point of order: When we are dealing with a section that is already printed in the bill and the amendment is in the bill and everyone has a copy of it, does that section have to be read again? I thought we agreed we would not read the amendments that were already printed in the bill.

The Acting Chairman: The difficulty is that some people want time to look over the bill and to read the amendment and so forth. They are going to take the time anyway.

Mr. Cordiano: I am just putting that forward for the committee.

The Acting Chairman: I am trying to facilitate everyone getting a chance to see what is an amendment so that he can comment on it if he wishes. Otherwise, we are going to have to hold things up anyway while they read it. That was the problem with it.

Now we on subsection 2(4).

Ms. E. J. Smith: I move that clause 4(1)(a) of the bill be amended by striking out "suite hotel" in the second line.

The Acting Chairman: We are doing subsection 2(4).

Ms. E. J. Smith: Pardon me. I am sorry. Do not get nervous.

The Acting Chairman: Shall that stand as part of the bill?

Mr. Gordon: I am not nervous, Ms. Smith. I just want to make sure we are doing things correctly.

The Acting Chairman: Mr. Gordon, are you pleased with that?

Mr. Gordon: Will you run that by me again Ms. Smith?

Ms. E. J. Smith: No. I was in error, so I will not run my error by you again.

The Acting Chairman: We are at subsection 2(4). Shall 2(4) stand as part of the bill? Agreed.

On section 3:

The Acting Chairman: We are on section 3 which says, "This act is binding on the crown"?

Mr. Reville: Absolutely.

Section 3 agreed to.

On section 4:

Mr. Gordon: I would like 4 stood down.

The Acting Chairman: You would like the whole section stood down?

Mr. Gordon: Yes.

The Acting Chairman: Subsections 4(1) (2) and (3) are all stood down.

Mr. Reville: I have an amendment to clause 4(2)(b) to move. We might as well move it while we are here.

The Acting Chairman: It has been distributed. I presume all of us have that.

Mr. Reville: Why do we not read it into the record?

The Acting Chairman: Mr. Reville moves that clause 4(2)(b) be struck out and the following substituted therefor:

"a rental unit situate in a nonprofit housing project, rents for which are subject to the approval of the government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or

any agency thereof, or situate in a nonprofit co-operative housing project as defined in the National Housing Act (Canada).

Is that what we call a Reville amendment?

Mr. Reville: You can call it that if you like, Mr. Chairman.

The Acting Chairman: We have agreed we will stand down that section. You have the benefit of the amendment proposed by Mr. Reville.

On section 5:

The Acting Chairman: Ms. Smith moves that subsection 5(1) of the bill be amended by inserting after "rent" in the fifth line "and of the current maximum rent, if it is higher than the current rent."

Mr. Reville: That has to be stood down in view of my standing down of the definition of "maximum rent."

The Acting Chairman: Agreed. Are we standing down subsection 5(1)? Okay. Subsection 5(2)? Agreed. Subsection 5(3)? Agreed. Subsection 5(4)? Agreed.

On section 6:

Mr. Reville: Will you stall a second here, Mr. Chairman? I have to shuffle. I cannot find it. Proceed.

Section 6 agreed to.

On section 7:

The Acting Chairman: There are only clauses (a) and (b) here.

Mr. Reville: I would like a ruling from the chair. Suppose there were some amendment to section 68.

The Acting Chairman: Mr. Reville, I have been informed that this is dependent on section 5, which has been deferred, so it probably means we should stand that section down.

Mr. Reville: Good thinking. That is very logical. You do not have to answer my other question then.

The Acting Chairman: We will stand down section 7.

On section 8:

The Acting Chairman: That deals with part I. In part II, which is general, section 8 says, "The minister is responsible for the administration of this act." Does anybody have any difficulty with that?

Mr. Reville: I think it is fine.

Section 8 agreed to.

On section 9:

16:20

Mr. Reville: On section 9, there was a suggestion that we have a rent review administrator in Thunder Bay. It is announced today in this place that there will be one right there in Thunder Bay. On that island there?

Hon. Mr. Curling: No, actually--

Interjection.

Mr. Reville: That would be nice.

Section 9 agreed to.

Sections 10 to 12, inclusive, agreed to.

On section 13:

Ms. E. J. Smith: I move that--I agree to subsection 13(1).

Mr. Gordon: Stand it down.

The Acting Chairman: Stand it down?

Ms. E. J. Smith: The whole section? Okay.

Mr. Reville: And section 15.

Hon. Mr. Curling: Do you mean sections 13, 14 and 15?

The Acting Chairman: Section 13? Will we stand down 14 and 15. Agreed? We are standing down all the noncontroversial sections and dealing with the controversial ones.

Mr. Reville: Have we done this backwards?

The Acting Chairman: We will stand down section 15.

On section 16:

Mr. Reville: I am having trouble catching up with writing stand down. I have it down to three letters.

The Acting Chairman: We have stood down sections 13, 14 and 15, Mr. Reville. We are dealing now with part III, section 16.

Section 16 agreed to.

Section 17 agreed to.

On section 18:

Mr. Reville: I have some concerns about section 18 and I would like it stood down.

The Acting Chairman: Do you wish to speak to them now, Mr. Reville?

Mr. Reville: No, I would like to stand it down.

The Acting Chairman: Is that portions of it or the whole section?

Mr. Reville: We might as well stand the whole thing down because concerns with one subsection may relate back.

The Acting Chairman: Okay; section 18 is stood down.

On section 19:

Ms. E. J. Smith: I move we stand down section 19.

The Acting Chairman: Section 19 is also stood down.

Sections 20 to 24, inclusive, agreed to.

On section 25:

The Acting Chairman: Subsection 25(1) agreed to? Agreed.

Ms. E. J. Smith moves that subsection 25(2) of the bill be amended by inserting after "and" in the third line, "any party other than the applicant" and by adding at the end thereof "and where a party does so, the applicant may submit representations in response thereto not later than 45 days from the date of the making of the application."

Motion agreed to.

The Acting Chairman: Ms. E. J. Smith moves that subsection 25(3) of the bill be struck out and the following substituted therefor:

"(3) Where the minister extends the time for filing set out in subsection (1), the minister shall notify the parties affected by the application of the extended filing date and of the extended times for making representations under subsection (2) in consequence thereof."

Motion agreed to.

Section 26 agreed to.

On section 27:

The Acting Chairman: Ms. E. J. Smith moves that subsection 27(1) of the bill be amended by striking out "persons" in the third line and inserting in lieu thereof "landlords and tenants."

Mr. Reville: That amendment is just to be more specific about the parties? I see nodding.

The Acting Chairman: Do you agree with that interpretation, Mr. Reville?

Motion agreed to.

The Acting Chairman: Ms. E. J. Smith moves that subsection 27(2) of the bill be struck out and the following substituted therefor:

"(2) Any person who receives a notice under subsection (1) may, not later than 30 days from the giving of the notice by the minister, submit documents and make representations to the minister in respect thereof."

Motion agreed to.

Sections 28 and 29 stood down.

Section 29 stood down.

On section 30:

The Acting Chairman: Ms. E. J. Smith moves that section 30 of the bill be amended by inserting after "act" in the second line "or on any matter commenced on the minister's own motion."

Motion agreed to.

On section 31:

The Acting Chairman: Ms. E. J. Smith moves that section 31 of the bill be amended by striking out "the minister is not required to hold a hearing" in the third line and inserting in lieu thereof "a hearing shall not be held."

Mr. Reville: Stand it down.

Motion stood down.

On section 32:

The Acting Chairman: Subsection 31(1) is agreed to?

Ms. E. J. Smith moves that subsection 32(2) of the bill be amended by striking out "person" in the fourth line and inserting in lieu thereof "landlord and tenant."

Motion agreed to.

On section 33:

Ms. E. J. Smith: I would move that 33 be stood down. Section 33a is the new one. Subsections 33(1) and (2) are all right.

Section 33 agreed to.

The Acting Chairman: Section 33a.

Ms. E. J. Smith: I would ask that it be stood down.

Section 33a stood down.

16:30

On section 34:

The Acting Chairman: Ms. E. J. Smith moves that subsection 34(1) of the bill be amended by striking out "or with the district court" in the third

line and inserting in lieu thereof "the district court or the provincial court (civil division)."

Motion agreed to.

Section 34, as amended, agreed to.

The Acting Chairman: In part IV we will go on to section 35.

On section 35:

Mr. Reville: There were some comments about section 35 as to the composition of the board. Section 36 deals with that as well. I recall that it was the Lakehead Social Planning Council's concerns about making sure the northwest be represented on such a board. I wonder whether the minister could give us an idea of how big such a board will be and how people will find their way onto the board.

Hon. Mr. Curling: The composition and number of the board, as I gather, have not yet been established, but we will make sure that the representation on the board reflects those parties who are interested. We are talking about whether they are tenants or the landlords.

Are you talking about the regional representation or are you talking about--

Mr. Reville: We know the board will have a chair, a vice-chair and other members. Our interest is in how many members you had contemplated and how they will be chosen. Will there be an effort to have geographical representation? Will there be an effort to have representation in type of housing stock, for instance? Obviously, tenant and landlord concerns in rural areas are different from those in urban areas. I just wondered what the minister's thinking was.

Hon. Mr. Curling: --was about 40, roughly. Representation would be considered geographically and all the concerns would be taken into consideration.

Section 35 agreed to.

On section 36:

The Acting Chairman: Is subsection 36(1) agreed to? Agreed.

Mr. Gordon: On subsection 36(2), I would like to ask the minister what the members of that board are going to be paid.

Hon. Mr. Curling: I would have to ask the staff about that. I presume there is a scale. Do we know that?

Mr. Peters: We can table that if you want to.

The Acting Chairman: It is really a political decision, I guess, but what is the scale that these people would generally be paid? Any idea?

Mr. Peters: I think it is in the administrative module and, subject to classifications, probably at the AM-18 level.

The Acting Chairman: Which is?

Interjections.

Mr. Peters: We can table the exact dollar figure.

Mr. Reville: Why do we not just hold that down until we can find out?

The Acting Chairman: It really has no bearing on us, Mr. Gordon. You just want to find out--

Mr. Reville: We would not want you to underpay these people; they are going to do an important job. I assume there is a rate for the chair and a rate for the vice chair and a per diem. No? Wrong? Must be an AM-18.

Mr. Gordon: Is this going to be a full-time job?

Mr. Reville: I would reckon so.

Interjection: Yes, I gather it will be.

Mr. Reville: Eighty hours a week.

Mr. Gordon: How many members did you say were going to be on this board in Toronto?

Hon. Mr. Curling: The estimate in here is around 40.

Mr. Gordon: Forty?

Hon. Mr. Curling: Yes.

Mr. Reville: Forty of them meeting here in Toronto?

Hon. Mr. Curling: No.

The Acting Chairman: All over the province.

Hon. Mr. Curling: It would be all over the province. We would not want Sudbury cases to be down here. We like Sudbury cases to be handled in Sudbury.

Mr. Gordon: You are going to set up the board right away?

Mr. Reville: It is okay if a guy from Sudbury comes here. Mr. Gordon comes here.

Hon. Mr. Curling: As soon as this has been approved, we will move right away on it.

Mr. Gordon: Can we have an idea how much these people are going to be paid, whether they are going to sit every day and so forth, and what the average salary might be?

The Acting Chairman: If it is AM-18, I understand it is somewhere between \$37,000 and \$45,000. Do you still want it stood down, or is that--

Mr. Gordon: You might as well stand it down.

The Acting Chairman: That is section 36(2)?

Mr. Gordon: You might as well stand the whole section down.

Mr. Reville: I have a question while we are on it.

The Acting Chairman: We had agreed to subsection 36(1), Mr. Gordon. In fact, we agreed on all three of them, but if you want to stand the whole thing down, that is fine.

Mr. Gordon: Look, Mr. Chairman, you know, if you would just--

Mr. Cordiano: We are standing it down.

Mr. Gordon: I know he is standing it down.

Mr. Reville: But he is trying to sneak one by us.

Mr. Gordon: I did not want to say something. I heard you say "agreed" to subsection 36(1), but I did not hear me say it. Okay?

The Acting Chairman: Okay.

Mr. Reville: I was talking at the time, so I did not hear anything.

Mr. Gordon: We are trying to be co-operative here, and if the chairman would quit acting like a lion tamer and let us get on with this bill--

The Acting Chairman: You are doing great, Mr. Gordon. I appreciate it.

Ms. E. J. Smith: Hear, hear.

Hon. Mr. Curling: I like Jim. He is easy to get along with.

The Acting Chairman: We will stand down section 36.

Section 36 stood down.

Section 37 agreed to.

On section 38:

Mr. Reville: I have a question about that.

Ms. E. J. Smith: Section 38 or section 39?

Mr. Reville: Section 38. We are on section 38 now?

The Acting Chairman: Yes.

Mr. Reville: It says, "Subject to subsection 100(2)." Should it not say "section 100(2)"?

Maybe we should ask legislative counsel that question, Mr. Chairman. In the wording in the bill it says, "Subject to subsection 100(2)." Should that rather say "section 100(2)"?

Mr. Fader: No. Our usual style of citation, Mr. Reville, is to go to the lowest common denominator.

Mr. Reville: Which is a subsection?

Mr. Fader: A subsection.

Mr. Reville: Well, bless my soul.

Mr. Fader: You will find that we are consistent in that through the bill.

Mr. Reville: To go to the lowest common denominator, I like my name pronounced "REVILLE." I know you have a colleague named "RevELL," but that is not me. I just want to check subsection 100(2).

The Acting Chairman: Okay. Is section 38 approved?

Mr. Reville: No. I am still reading here. It refers to subsection 100(2), about which I just asked.

Ms. E. J. Smith: It is on page 49.

Mr. Reville: Okay.

The Acting Chairman: Okay. Approved?

Section 38 agreed to.

On section 39:

Ms. E. J. Smith: Agreed.

Mr. Reville: Hold on. Before you agree, given the amount of work that I think this board is going to do, do you think one vice-chairman is going to be enough?

Hon. Mr. Curling: As a matter of fact, you asked earlier whether they were full-time. I will just go back to answer whether one vice-chairman is sufficient. Even section 41 tells us that all the members are full-time, and the vice-chairman is full-time. I think it will be sufficient.

16:40

Mr. Reville: Is it not contemplated that you have a chairman or a vice-chairman at each sitting?

Hon. Mr. Curling: It is explained, if you want it.

Mr. Reville: I know that subsection 39(3) says what the vice-chairman does. If the chairman is absent, the vice-chairman may become chairman. That seems like a ton of work.

Ms. E. J. Smith: That is general administration, though, so that would be the meeting of the whole group, would it not?

Hon. Mr. Curling: As a matter of fact, there will be support staff for this group.

Mr. Reville: Is it not contemplated that the vice-chairman actually sits as a member of the appeal panel, but as a staff person to the board? Basically, you have two staff members, the chairman and the vice-chairman, and other clerical and administrative staff.

Mr. Peters: The structure that is contemplated for the hearings board is that the chairman will be the chief executive officer of the Rent Review Hearing Board. The vice-chairman will be the chief administrative officer and will be responsible for the day-to-day administration and scheduling of the activities of the board.

Mr. Reville: Did you tell us all this on August 19?

Mr. Peters: I am not sure whether I did on August 19. During the past time, we have been developing the exact organization chart of the hearings board.

Mr. Reville: So you probably did not tell us.

Mr. Peters: The principle I just mentioned was consistent--

Mr. Reville: It may have slipped my mind, but I think it would be very useful if the organization chart that has been developed were tabled. It will help us in our understanding of how the system will work, and that is of great interest to us. The explanation of chief executive officer and chief administrative officer is helpful, but if we could see how the boxes connect to each other, it would be remarkably elucidatory--or something.

Mr. Peters: We shall do so.

Mr. Reville: That may not be a word.

Ms. E. J. Smith: I liked it.

Mr. Reville: It will be illuminating too, not to mince words.

The Acting Chairman: "Elucidatory" as opposed to "hallucinatory."

Mr. Reville: That is a different committee; that is in a health disciplines committee. We do not do that here.

The Acting Chairman: Did you want to approve this, Mr. Gordon?

Mr. Gordon: To go along with Mr. Reville, what is the number of the backup personnel you are going to require?

Mr. Peters: Mr. Parker and I will be meeting tomorrow with Dr. Ray, who is the chairman of the Residential Tenancy Commission, to discuss the actual composition and staff complement of the Rent Review Hearing Board. At this point the number is roughly 100, which I believe was mentioned when we tabled material before the committee--I am not sure whether it was August 19--some time during the ministry presentation.

As was mentioned, at this point it is considered that approximately 40 would be members of the hearing board, and the rest, obviously, would be clerical support and backup to the organization. It is organized on a regional basis as well, which is consistent with the organization of the Residential Tenancy Commission currently. We can provide the organization chart showing the split and the boxes and the reporting relationships of that.

Mr. Reville: You said Dr. Ray, who was head of the RTC? Is he here, by any chance?

Hon. Mr. Curling: It is a woman, Dr. Ratna Ray.

Mr. Peters: She is not here at this moment.

Mr. Reville: It is good the government is pursuing affirmative action. I approve of that. I have to get out of that trouble I was in somehow.

The Acting Chairman: Do you agree with subsection 39(1)?

Interjections: Agreed.

Section 39 agreed to.

Section 40 agreed to.

On section 41:

Mr. Reville: Stand it down.

Sections 42 through 44, inclusive, agreed to.

On section 45:

Mr. Gordon: I take it that when a landlord and tenant go before the Rent Review Hearings Board there will be a written summation handed down after each case and this is just to indicate that you are going to take some significant decisions. No?

Mr. Peters: It has been the practice of the Residential Tenancy Commission in the past that where, in its judgement, a decision reached either on appeal or in a hearing was of substance and had application to more than one case, it was its habit to publish for general circulation a summary of the significant decisions reached. This section allows the same activity to take place under the hearings board.

Mr. Gordon: Thank you.

Mr. Reville: Before you go on, I take it the annual report suggested in subsection 49(1) would relate to a statistical summary of the year's work and that would be a public document.

Mr. Peters: Yes; both are.

Mr. Reville: We would be able to see how many cases were heard and how they were disposed of in percentage terms, such as we have seen in the past?

Hon. Mr. Curling: From the RTC.

Mr. Reville: I think section 45 is complementary to that overall report. These are the landmark decisions.

The Acting Chairman: Mr. Gordon, are you okay with section 45?

Mr. Gordon: That is fine.

Section 45 agreed to.

Section 46 agreed to.

On section 47:

The Acting Chairman: Subsection 47(1)?

Interjection: Agreed.

The Acting Chairman: Subsection 47(2)?

Mr. Reville: I am being talked to now. I have lost track of where we are.

The Acting Chairman: We are on subsection 47(2), page 22.

Mr. Reville: That is fine.

Section 47 agreed to.

Section 48 agreed to.

On section 49:

The Acting Chairman: Subsection 49(1)?

Ms. E. J. Smith: Agreed.

The Acting Chairman: Subsection 49(2)?

Mr. Gordon: Agreed.

The Acting Chairman: Subsection 49(3).

Mr. Reville: Before we conclude this section, I point out that there are those who think this kind of report is inappropriate and brings the activities of the board into the political forum. I have to figure out who said that. I thought you would want to know that right away.

The Acting Chairman: It is certainly helpful.

Mr. Reville: It would be more helpful if I could find the other piece of paper. You will have to bear with me because I am a little disorganized today. Here it is. I will tell you who said that.

The Acting Chairman: We want to give you all the time you need.

Mr. Reville: Right; I am not telling you. I just thought I would make that observation. On the other hand, I think it will be very useful to have an annual report because we are going to use it in question period often in the year following.

The Acting Chairman: That is something I cannot wait for.

16:50

Mr. Reville: You may want to use in question period when you are in opposition.

The Acting Chairman: Question period applies even to government members, so who knows?

Mr. Reville: I have nothing further.

The Acting Chairman: Is subsection 49(3) agreed to? Agreed.

Section 49 agreed to.

Sections 50 and 51 agreed to.

On section 52:

The Acting Chairman: We are on part V, rent registry, subsection 52(1).

Ms. E. J. Smith: I would like that stood down.

The Acting Chairman: The whole section? Stand down section 52(1)?

Ms. E. J. Smith: Subsection 52(1). Subsection 2 has--I can read the amendment. I want subsection 1 stood down.

The Acting Chairman: Ms. Smith, if you have an amendment with respect to subsection 52(2), will you please read it?

Ms. E. J. Smith: Yes. It is just that I want to stand down subsection 1 first.

The Acting Chairman: Ms. E. J. Smith moves that subsection 52(2) of the bill be struck out.

Ms. E. J. Smith: It is struck out in the book here. Do you want me to read it? Will that be helpful?

"Where the rent actually charged for a rental unit as of the actual rent date was for a rental period other than a monthly period, that rent shall be converted in the prescribed manner to an equivalent monthly rent."

Mr. Reville: Why do we not need that any more?

Mr. Laverty: It is basically because in the initial draft of the act, the landlord was meant to perform such conversion. Several landlords requested that such a conversion would be more properly done by the ministry and we have agreed to do so. The ministry will be performing that calculation on behalf of the landlord and the tenants.

Ms. E. J. Smith: Does my motion carry?

The Acting Chairman: We are standing that section down, as you know.

Ms. E. J. Smith: We are standing the whole thing down?

The Acting Chairman: Yes, the whole thing.

Hon. Mr. Curling: What about subsection 52(2)? Are we standing--

The Acting Chairman: Yes. We will stand the whole section down. We have done that before because one ties in with the other. We usually stand down the whole section.

On section 53:

The Acting Chairman: Ms. E. J. Smith moves that sections 53 and 54 of the bill be struck out and the following substituted therefor:

"53. The minister shall establish and maintain a rent registry for all residential complexes that are subject to this part."

Ms. E. J. Smith: Do you want to deal with them separately or together?

The Acting Chairman: Just a moment. Do you want to deal with section 53? You have the amendment.

Mr. Reville: We certainly do like that.

The Acting Chairman: Is everyone agreed with section 53?

Section 53 agreed to.

On section 54:

The Acting Chairman: "54. (1) The minister shall, on the request of any person made in the prescribed manner, furnish that person with information that is recorded in the rent registry in respect of any rental unit, but may limit the information so furnished in accordance with the prescribed rules.

Mr. Reville: This is one of the areas in which the absence of the regulations, about which we talked at boring length during the hearings, would be very helpful.

The Acting Chairman: The boredom would be helpful or the regulation would be helpful?

Mr. Reville: The boredom is never helpful. I may have to say this whole thing again. You have confused me.

There are prescribed rules whereby the information may be limited in connection with a request for information from the rent registry. I assume such prescribed rules are contained in the regulations, as yet unseen, which have been repeatedly requested in a boring fashion, but obviously not boring enough to cause them to be produced. I wonder whether the minister or his officials would care to comment on the likelihood of seeing the regulations in respect of this section in a timely fashion.

Hon. Mr. Curling: My understanding of this procedure is that normally regulations are not presented when the bills are being done. As a matter of fact, the regulations are not even finalized now and I do not think it will be worth while to give you incomplete regulations.

Mr. Reville: There have been loud protestations on the part of your officials and yourself throughout these hearings that when regulations became available they would indeed be made available. What you have just said now, while I cannot dispute it, does not seem to coincide with the previous comments in that regard. I invite other members of the committee to search their memories for similar feelings about the production of regulations on a timely basis.

Hon. Mr. Curling: I stand corrected about regulations when we have clause by clause such as this. I stand corrected on the procedure, but I again state that the regulations are not ready.

Mr. Reville: That is a fair thing to state. I was concerned that perhaps the offer of the ministry was changing. We are quite aware that in the past regulations have not been forthcoming very often. However, it has been emphasized over and over again that where they were available, they would be made available to the committee. I invite other members of the committee either to support my memory of the discussion or not.

The Acting Chairman: The minister has indicated they are not available at this time.

Mr. Reville: Would it be proper to ask the minister whether there is any indication when they might become available so we can see what the rules are with respect to the provision of information on the registry? Clearly, if the rules are such that the information in the registry is severely limited and is other than such as might be under protection of privacy or misuse of such information, then we want to know this because we would have some real concern that the information in the registry was not really going to be available to people who needed it.

The Acting Chairman: I am not sure what the ministry is going to do on this, but traditionally the regulations have not been available until after the bill has been approved because they are often contingent on the bill itself.

Mr. Reville: I am not disputing that. What I am saying is that has not been the offer of the minister with respect to this bill.

Hon. Mr. Curling: I gather that many of the discussions have been with regard to information and privacy in regard to the information offered, being released. That is one of the reasons we talk about having the regulations out. You are asking whether when a regulation is ready, we will give it to you and when. Is that what you are asking?

Mr. Reville: No, I was not asking that because I thought the minister was going to provide regulations that were available. My question is, can you give us some idea when the regulations will be available?

Hon. Mr. Curling: You had better ask my staff when the regulations will be ready because I myself am not drafting the regulations.

Mr. Reville: I did not expect you would be.

Mr. Peters: The various subcommittees of the Rent Review Advisory Committee, as indicated previously, are continuing to meet to assist in the drafting of the regulations. The registry subcommittee has met on a number of

occasions. I will have to report back to the committee as to the exact status of the completeness of that specific regulation.

Subsection 54(1) as drafted relates to the types of information that would not affect the tenant's knowledge about the legal maximum rent and is simply there to protect some information that it may not be appropriate to give to the tenant in terms of the privacy provisions of the normal rights to privacy under freedom of information and so on.

The regulation, or more correctly the intent, is to provide to each individual tenant, upon request, the amount of information necessary so they can be sure that the rent they are being charged is equal to or less than the legal maximum rent as established by the act. It is a question of disclosure versus the right to privacy for some personal information. That is the intent of the section. The actual regulation, as I mentioned, is still being drafted and I will undertake to find out where they are in that drafting process.

17:00

Mr. Reville: Perhaps after all that discussion we can stand it down and Mr. Peters will give us an indication of when we might expect it. We can then decide what to do.

The Acting Chairman: We will stand down section 54.

Mr. Reville: We might as well stand down the whole thing.

Ms. E. J. Smith: What about section 53? We passed it.

Mr. Reville: That is the establishment and maintenance of a rent registry which we have long required.

The Acting Chairman: We will stand down section 54.

On section 55:

Mr. Gordon: In regard to the topic of regulations, which my colleague, Mr. Reville, brought up, I distinctly remember that in this committee, over the various weeks we met, whenever this issue of regulations was raised a conciliatory approach was taken by the ministry people that led me to believe we would be seeing regulations when we got to clause by clause. Granted, I did not expect to see all the regulations; this is a complex bill. However, that should not be used as the excuse as to why we cannot see the regulations. It is a complex bill. When passed, it is going to have sweeping ramifications in so many different areas. It is only proper that this committee be given some idea as to the kinds of regulations that are going to be adopted in regard to various sections of this bill.

Hon. Mr. Curling: What is your question? We told you that the regulations are not ready.

Mr. Gordon: I am asking you to make the regulations available to this committee.

The Acting Chairman: Mr. Gordon, the minister has already--

Mr. Gordon: I did not ask you, Mr. Chairman. I asked the minister.

Hon. Mr. Curling: I have already stated that they are not ready. You said you want them to be presented here.

Mr. Gordon: I have been told by people who worked on RRAC, and this was a number of weeks ago, that those regulations were more than 75 per cent complete. Can we see the regulations that have been completed?

Hon. Mr. Curling: The staff has just reported that it will get back with an update of where the regulations are. You are saying that they are 75 per cent completed. We can debate the percentage.

Mr. Gordon: Perhaps you can tell me where they are.

Hon. Mr. Curling: You have just heard that I do not know the status of the regulations right now. The staff has told you that it will report back and tell you the status of the regulations. Are you asking me to predict the status of the regulations now?

Mr. Gordon: Minister, in any discussion of regulations this committee has been put off and put off. Your staff says it is going to get back to us. When are they going to get back to us, tomorrow, next week, when? There is no point talking about time unless you can specify when.

Hon. Mr. Curling: Do you want me to tell you the status when we meet next?

The Acting Chairman: I think the ministry could give us an indication next week or the next day when they think they might be ready.

Mr. Reville: Wednesday.

The Acting Chairman: The next day we meet.

Mr. Gordon: Will that include the actual status, what percentage of them are ready and when we can begin to see some of these regulations?

Hon. Mr. Curling: On Wednesday, we will tell you all that.

Mr. Gordon: It is going to be an open government then. The windows are open; the doors are not closed, right? We will remember that.

Ms. E. J. Smith: There is an amendment on subsection 54(1).

The Acting Chairman: Section 54 has been stood down. I neglected to do this earlier but two people are present from RRAC, Ms. Mary Hogan of the tenants and Mr. Bill Grenier of the landlords. Welcome again.

Mr. Grenier: My apologies for my tardiness. My banker had first call on my time this afternoon.

The Acting Chairman: That is important these days.

Mr. Grenier: Yes.

The Acting Chairman: You have an amendment, Ms. Smith?

Ms. E. J. Smith: Yes.

The Acting Chairman: Ms. E. Smith moves that subsection 55(1) of the bill, exclusive of the clauses, be struck out and the following substituted therefor:

"(1) Every landlord of a residential complex containing more than six rental units, other than a residential complex that is a boarding house or a lodging house, shall file a statement in the prescribed form with the minister."

Is there any discussion?

Mr. Reville: Why does Ms. Smith not finish with clause 55(1)(a)?

Ms. E. J. Smith: Do you want me to read the next one, clause 55(1)(a)?

The Acting Chairman: Ms. E. J. Smith moves that clause 55(1)(a) of the bill be struck out and the following substituted therefor:

"(a) on or before the first day of the month that falls not sooner than 90 days after the day this section comes into force, in respect of all rental units in the residential complex that were rented on or before the day this section comes into force."

The Acting Chairman: Is there any discussion?

Mr. Reville: I would like it stood down.

The Acting Chairman: Stand it down?

Ms. E. J. Smith: Can we have both stood down?

The Acting Chairman: Stand down the whole section 55?

Mr. Reville: You just have to read them into the record.

The Acting Chairman: Are there any other amendments?

Ms. E. J. Smith: I also have an amendment to subsection 55(3), but I assume that is stood down too.

Mr. Reville: Yes, but I do have a question about clause 55(1)(b).

The Acting Chairman: Okay. Before we do the amendment, Ms. Smith, maybe we can have the section cleared.

Mr. Reville: Yes. I do not understand what clause 55(1)(b) means.

The Acting Chairman: Mr. Peters or Mr. Laverty?

Mr. Reville: Maybe I am beginning to understand what it means, but maybe you can tell me just so I do not guess. This is on rent up, right?

Mr. Peters: Yes.

Mr. Reville: You will have to do more than that.

Mr. Peters: What this section allows for is a sequential

registration for units in a residential complex as they are rented within six months, and that keeps going until the registration process is complete for the whole residential rental complex.

Mr. Reville: Is it possible, then, that I could rent a unit, but the rent on that unit would not appear in the registry until six months later, when the next six-month doings occurred?

Mr. Laverty: You must remember that, according to section 67, the landlord cannot increase the rent on that unit for a 12-month period in any event, so that you would have--

Mr. Reville: "Cannot" and "might not" are not the same, though, are they. Is there any explanation for the six-month period? Was it just for convenient intervals so as not to place an undue reporting burden on someone? I guess your remedy would be to check on a unit that you know was rented already and see whether it was in the registry.

The Acting Chairman: I see he is nodding yes.

Mr. Reville: Let the record show that heads nodded.

Mr. Peters: Yes, that is correct, Mr. Reville.

Mr. Reville: Thank you.

The Acting Chairman: Are there any other questions on section 55 before we stand it down?

Mr. Reville: You are saving an inordinate amount of time, you know.

The Acting Chairman: I recognize that, Mr. Reville.

Mr. Reville: I have written the explanation right here in my book: sequential registration.

The Acting Chairman: Are there any further amendments, Ms. Smith?

Ms. E. J. Smith: We are standing down the whole of section 55. There is also an amendment to section 56.

The Acting Chairman: There are no further amendments to section 55 though?

Ms. E. J. Smith: There are amendments for subsections 55(2) and (3).

The Acting Chairman: We will stand it down after you read the amendments into the record.

Ms. E. J. Smith moves that subsection 55(2) of the bill, exclusive of the clauses, be struck out and the following substituted therefor:

"(2) Every landlord of a residential complex containing six or fewer rental units or of a residential complex that is a boarding house or a lodging house shall file the statement mentioned in subsection (1)."

Ms. E. J. Smith further moves that subsection 55(3) of the bill be

amended by inserting after "units" in the third line "or of a residential complex that is a boarding house or a lodging house."

17:10

Is there any discussion? If not, we will stand that section down.

Ms.: E. J. Smith: I also have an amendment to section 56.

The Acting Chairman: You also have an amendment to section 56. We will stand down that whole section 55.

Mr. Reville: Before we disappear off the section, this is another situation in which a regulation is of interest--just so that the minister has heard that.

The Acting Chairman: I am sure he has, Mr. Reville.

Mr. Reville: I do have a loud voice, do I not? I sang in the church choir. I remember the father telling me: "Speak up, son. Speak up."

The Acting Chairman: It is another way of saying that you did get your oar in.

Mr. Reville: My aura?

The Acting Chairman: Oar.

Mr. Reville: Oh, oar. Whatever.

Section 55 stood down.

On section 56:

The Acting Chairman: Ms. E. J. Smith moves that subsection 56(1) of the bill be amended by striking out "on which the rent was last increased, or if the actual rent is the rent that was first charged, the date" in the fifth, sixth and seventh lines.

Is there any discussion?

Mr. Reville: I am sorry. I have gone blank on your amendment, Ms. Smith. What was that an amendment to?

Ms. E. J. Smith: Paragraph subsection 56(1)3.

Mr. Reville: Oh, right.

The Acting Chairman: You will see the line there.

Ms. E. J. Smith: See the little line there at the bottom?

Mr. Reville: Yes, I see the little line there. I thought maybe I had just drawn that with my pen.

Ms. E. J. Smith: Yes. It is easier to read if you read it in here than listening to me, actually.

The Acting Chairman: I thought you were doing very well, Ms. Smith.

Mr. Reville: She did. It was an excellent job. I just did not know what she was talking about at all.

Ms. E. J. Smith: That is a problem.

The Acting Chairman: Is there any comment or questions on that? If not, there is another amendment in paragraph subsection 56(1)5.

Ms. E. J. Smith moves that paragraph 56(1)5 of the bill be amended by striking out "cable television" in the third line and inserting in lieu thereof "cablevision."

Ms. E. J. Smith: That is a very important amendment.

The Acting Chairman: A new terminology. I am sure everyone in the room is familiar with that.

Ms. E. J. Smith: I was not. I learned something..

The Acting Chairman: I was not either, to be honest with you. Are there any other amendments for section 56?

Mr. Reville: Stand it down.

The Acting Chairman: We will stand that down.

Ms. E. J. Smith: We are standing down the whole of section 56?

The Acting Chairman: The whole section.

Mr. Reville: Yes.

Section 56 stood down.

The Acting Chairman: In case anybody questions why I am standing down the whole section, I have been through these things before and I just know that if we do not stand down the section, somebody is going to want to tie in another section with it next time, and then you have to have a motion to open up the section again to be able to discuss it. In actual fact, it would take more time than if we left it open now. That is why I am standing down the whole section.

Ms. E. J. Smith: Very good.

Mr. Reville: I move a vote of confidence in the chairman.

The Acting Chairman: I did not ask for that, Mr. Reville. We will go on to section 57.

Mr. Reville: That is an incredibly sensible decision in this respect.

On section 57:

Ms. E. J. Smith: I have an amendment in the second part of it, Mr. Chairman.

The Acting Chairman: Subsection 57(1).

Ms. E. J. Smith: Agreed.

The Acting Chairman: Agreed.

Ms. E. J. Smith moves that subsection 57(2) of the bill be amended by inserting after the word "be" in the fifth line "not later than" and by striking out "the landlord or the tenant receives" in the sixth line and inserting in lieu thereof "of the giving by the minister of."

The Acting Chairman: Are there any questions with regard to subsection 57(2)?

Motion agreed to.

The Acting Chairman: Ms. E. J. Smith moves that subsection 57(3) of the bill be amended by inserting after "be" in the sixth line "not later than" and by striking out "the landlord or the tenant receives" in the seventh line and inserting in lieu thereof "of the giving by the minister of."

Motion agreed to.

Mr. Reville: Just wait a second, please.

I think we will stand that one down.

The Acting Chairman: Stand down section 57?

Mr. Reville: We had agreed to subsections 57(1) and (2), but it may be more sensible to stand the whole thing down.

The Acting Chairman: That is what we have done in the past, so we will stand down all of section 57.

Section 57 stood down.

On section 58:

The Acting Chairman: Is subsection 58(1) agreed to?

Ms. E. J. Smith: Agreed.

The Acting Chairman: Subsection 58(2)?

Mr. Reville: I have a question. When the notice is sent out in the prescribed form, what information is contained in that notice? The section indicates that the tenant gets a notice of the rent recorded on that unit.

Mr. Peters: It certainly would include the rent recorded on the unit. The other features that would be in the prescribed form I do not think I would be in a position to indicate to you. One of the problems in drafting the regulations, of course, is we have had to assign some kind of priority as to which ones we are proceeding with, and in the matter of course, the contents of forms have been somewhat lower down on our list of priorities, so that in many cases the forms have not yet been completed. However, we could check to see exactly how far that one is along and report back to you.

Mr. Reville: It certainly would be of interest to know whether any qualitative judgement is expressed in the notice to the tenant. Maybe that is not a very descriptive adjective. Do you send a tenant a notice saying, "The rent on unit 1106 is \$928; yours, truly," or do you say, "It is our opinion that this rent is correct"?

Mr. Laverty: It would certainly indicate the status vis-à-vis section 57--that is, whether a 30-day or a two-year time limit applied in that case, because that would be necessary in order to inform the tenant of the time period in which he would have to make an application to the minister.

Mr. Reville: Does a little recipe go with this notice for how to apply to the minister?

Mr. Laverty: As a general principle, of course, the intent is to include, either in the notice or in supplementary material to the tenant, an explanation of what it means so that the tenant will know. This sort of a subset of our overall commitment to education that we should not be sending out notices to people that they cannot understand.

Mr. Reville: You are not going to write this, are you, Dr. Laverty?

Mr. Laverty: No. I can guarantee I will not.

17:20

Mr. Reville: We are off on the right foot here. In view of the fact Dr. Laverty is going to go to find out, why do we not stand that down? He might find out something that we are interested in.

Section 58 stood down.

On section 59:

The Acting Chairman: Is subsection 59(1) agreed to? Agreed. Subsection 59(2)? Agreed. Subsection 59(3)? Agreed. Subsection 59(4)?

Mr. Reville: Stand down subsection 59(4). I do not have trouble with the rest of it.

The Acting Chairman: Stand down section 59?

Interjections.

The Acting Chairman: To be consistent with this, we will stand down the whole section. Everybody knows you have a question only with respect to subsection 59(4), but we will stand down the section.

Section 59 stood down.

On section 60:

Ms. E. J. Smith: Mr. Chairman, I ask you to stand down section 60.

The Acting Chairman: Is it agreed to stand down that section, all four subsections? Agreed.

Section 61 agreed to.

On section 62:

The Acting Chairman: Ms. E. J. Smith moves that section 62 of the bill be struck out and the following substituted therefor:

"Where the minister is satisfied that any information contained in the rent registry is incorrect due to a clerical error or omission, the minister may, within two years of the date of the error or omission, amend the rent registry accordingly and shall notify the affected parties of any corrected information."

I want to clarify something. In the bill itself it says information "recorded," and you mentioned "contained." I just wonder whether you want to clarify or correct that.

Ms. E. J. Smith: "Recorded" is correct. Did I say "contained"?

The Acting Chairman: Yes. Therefore, after "information" in the second line the word should be "recorded" as opposed to "contained."

The amendment has been presented. All those agreed with section 62, as amended?

Ms. E. J. Smith: The difference is in the addition of the two years.

The Acting Chairman: Yes.

Section 62, as amended, agreed to.

On section 63:

The Acting Chairman: Subsection 63(1).

Ms. E. J. Smith: Agreed.

Interjection: It is not agreed.

Ms. E. J. Smith: Is that stood down?

The Acting Chairman: We are dealing with subsection 63(1) at the bottom of page 27.

Ms. E. J. Smith: We are agreed to subsection 63(1).

The Acting Chairman: Mr. Reville?

Mr. Reville: I am sorry. What is the question? I just fell into a dream.

The Acting Chairman: We are dealing with subsection 63(1).

Mr. Reville: No, we are just holding that all down there.

Ms. E. J. Smith: Section 63 is stood down?

The Acting Chairman: Do you want to stand down section 63?

Mr. Reville: Standing it down, yes.

Ms. E. J. Smith: Section 63 is stood down.

On section 64:

Mr. Reville: I was already thinking about section 64. I thought we had dealt with section 63.

Ms. E. J. Smith: I have an amendment to section 64.

The Acting Chairman: Ms. E. J. Smith moves that section 64 of the bill be amended by striking out "the landlord shall not collect any increase in the rent charged for any rental unit in the residential complex" in the fifth, sixth and seventh lines and inserting in lieu thereof "the collection by the landlord of any increase in the rent charged for any rental unit in the residential complex be stayed."

You have heard the amendment. Any discussion or questions?

Mr. Reville: Yes. Stand it down.

On section 65:

The Acting Chairman: Ms. E. J. Smith moves that section 65 of the bill be amended by striking out "the first day of January, 1987" in the first line and inserting in lieu thereof "the first day of the month that falls not sooner than 90 days after the day determined under clause 55(1)(a)."

You have heard the amendment. Any discussion? Agreed.

Section 65, as amended, agreed to.

On section 66:

Ms. E. J. Smith: There is an amendment to clause 66(e). I do not know how you are going to deal with it. Shall we deal with them one by one, or do you want me to read the amendment to clause (e)?

The Acting Chairman: I think you should read the amendment.

Ms. E. J. Smith moves that clause 66(e) of the bill be struck out and the following substituted therefor:

"(e) a notice given under subsection 89(2);

"(ea) a written approval of the minister given under subsection 88(3); and."

Are you in agreement with section 66, as amended? Do you want to sleep on it?

Mr. Reville: I would love to be able to sleep. Shall we adjourn?

The Acting Chairman: Stand it down.

Section 67 agreed to.

On section 68:

The Acting Chairman: Subsection 68(1)? Stand it down.

Any questions on subsection 68(2) or subsection 68(3)?

Section 69 agreed to.

On section 70:

The Acting Chairman: Ms. E. J. Smith moves that subsection 70(2) of the bill be amended by striking out "four per cent of the last rent that was charged for an equivalent rental period" in the second and third lines and inserting in lieu thereof "the increase permitted by clause 68(1)(a) or (b), whichever is applicable."

Ms. E. J. Smith: Section 68 was set down, so I assume this should be set down also.

The Acting Chairman: Any discussion on that amendment? There are a few more amendments you may want to read into the record.

Mr. Reville: Is it your opinion, Mrs. Smith, that this should be stood down?

Ms. E. J. Smith: No. I thought you would have that opinion since you set down section 68.

The Acting Chairman: It is dependent on section 68 which was stood down.

Mr. Reville: Section 68 is a cross-reference that talks about increases. I assume increases of whatever size will be in that section. They may be the same size as they are now, but I do not think it is necessary to stand down the subsequent section.

Ms. E. J. Smith: I have amendments also to subsection 70(3), clause 70(3)(a) and clause 70(4)(a).

The Acting Chairman: Have we agreed to subsection 70(1) and subsection 70(2)? Agreed.

Ms. E. J. Smith moves that subsection 70(3) of the bill be amended by striking out "four per cent" in the second line and inserting in lieu thereof "the increase permitted by clause 68(1)(a) or (b), whichever is applicable."

Agreed.

17:30

Ms. E. J. Smith moves that clause 70(3)(a) of the bill be amended by striking out "a four per cent increase" in the second and third lines and inserting in lieu thereof "the increase permitted by clause 68(1)(a) or (b), whichever is applicable."

Agreed.

Ms. E. J. Smith moves that clause 70(4)(a) of the bill be amended by striking out "a four per cent increase" in the second line and inserting in lieu thereof "the increase permitted by clause 68(1)(a) or (b), whichever is applicable."

Agreed.

We agreed earlier with subsections 70(1) and 70(2). Do you agree with subsection 70(3)? Agreed. Subsection 70(4)? Agreed.

Section 70, as amended, agreed to.

On section 71:

The Acting Chairman: Subsection 71(1)? Agreed. Subsection 71(2)? Agreed. Subsection 71(3)? Subsection 71(4)?

Mr. Reville: I have a question on subsection (4), which talks about what has to be filed, "a cost revenue statement in the prescribed form, together with all documents." Is there a provision somewhere for other documents that are subsequently requested or turn up, or are you stuck if you have filed?

Ms. E. J. Smith: I do not understand your question.

Mr. Reville: There must be a way to talk about this that I cannot seem to get a grab on just at the second. Is an applicant estopped from filing additional documentation by this section? What is the procedure if a document is inadvertently neglected or if somebody wants to see a document that is not produced initially?

Hon. Mr. Curling: Are you asking, Mr. Reville, whether the procedure will be stopped when they are asking for additional--

Mr. Reville: No, I was thinking of the concept of estoppel, whatever that is, whether you are prevented by the operation of this section from filing a further document.

Ms. E. J. Smith: I do not read it that way.

Mr. Reville: That is the question I am asking.

Ms. E. J. Smith: I am asking too.

Mr. Reville: Once you file this stuff, clocks begin to tick, it seems to me. If you have decided somewhere along the line that you wanted to file something else or if the minister asks you to file something else subject to section 29, what does that do to the time period? Maybe the solicitor could answer that question.

Ms. Stratford: In terms of filing additional information after the time period set out in the act, section 18 has general application to the various applications under the act, and subsection 5 of that section permits the minister to extend the time for the filing of any document.

If a landlord in this situation wanted to file material later than the time he filed his application, he could ask for an extension of time. Under section 29, if the minister feels that additional material is required because

he wants that material, he can direct that pursuant to the power given to him in section 29.

Mr. Reville: Everybody gets notice that the additional documents have been filed and anybody can make a request for additional time to respond to the documents filed late?

Ms. Stratford: Yes. Where the minister extends time under the act, he has to advise everyone of the new extended dates for filing material subsequently.

Mr. Reville: Thank you very much.

Ms. E.-J.-Smith: I have a new subsection (5) but I do not think subsection (4) has been agreed to yet.

Mr. Reville: I have one other question on subsection 71(3). The landlord has applied for rent increase already by this time, right? A notice will have gone out saying that the rents will be increased in 60 days, or is it 90 days?

Mr. Laverty: The notice of rent increase requires 90 days under section 5 of the act. The application requires 90 days according to subsection 71(3). The filing of the documents and all these events should occur not later than 90 days before the effective date of the first intended rent increase.

Mr. Reville: That is the point. If these other documents delay the process, does that in turn delay the rent increase?

Mr. Laverty: If the landlord is not given proper notice under section 5, it does, because section 5 requires 90 days before any rent increase. According to subsection 5(2), the rent increase notice is void if it does not meet the requirements of subsection 5(1).

Mr. Reville: What I may be missing--these fundamental problems occur to one at the funniest times. Suppose I am a landlord and I am going off to rent review and I want an increase of 12 per cent. I issue a notice for 12 per cent and apply to rent review. Time passes. The administrator for whatever reason does not get finished and make the order. What happens after 90 days?

Mr. Laverty: The fact situation is that you have applied for an increase greater than the guideline?

Mr. Reville: I have applied for a 12 per cent increase.

Mr. Laverty: If the administrator for some reason has not made his decision, section 7 will kick into effect. Under section 7 the landlord can collect the lesser of the intended rent increase specified in the notice or the limit imposed by section 68, which deals with the guideline and with maximum rent. If he has asked for 12 per cent, he cannot collect that.

Mr. Reville: He can only collect the guideline amount.

Mr. Laverty: Yes, until such time as the administrative review decision is rendered.

Mr. Reville: What does that do to the notice? The notice says \$512.

Mr. Laverty: Subsequent to that time, if the administrator decides

in favour of the landlord and awards a higher rent than the guideline, that full amount is collectable as of the first date of rent increase specified in the notice. As there is under the current system, there may be a retroactive period in which the amount would be owing.

Mr. Reville: Do you pay the higher amount initially or the lower amount?

Mr. Laverty: If the notice was for 12 per cent and the administrator finds that 12 per cent is justified, then 12 per cent is collectable back to the first effective date of the increase.

Mr. Reville: That is right, but does the 12 per cent start on the first day after the 90 days regardless of whether an award has been made by the administrator?

Mr. Laverty: No, if the decision has not been set down by the administrator, then the maximum would be the amount specified in section 68. Once he has made a decision, it will be the amount specified in that decision.

Mr. Reville: Does the notice have two numbers on it?

Mr. Laverty: No.

17:40

Mr. Reville: Sorry. I may have gone a bit weird here on you.

The Acting Chairman: What is the question?

Mr. Reville: The question is, what is the number on the notice, the 12 per cent or the guideline?

Mr. Laverty: The amount being requested.

Ms. Stratford: Yes. The landlord would insert in the notice the amount he or she is requesting. The present notice of rent increase under the Residential Tenancies Act goes on to state that where the amount requested exceeds the amount you can get without an application, then the tenant in the meanwhile, until an order is given authorizing a higher amount, only has to pay the amount allowed otherwise.

Mr. Reville: Does it say that on the notice?

Ms. Stratford: It says it as a note to the notice. We have not yet--

Mr. Reville: So in the absence of a favourable termination by the administrator or on appeal, you pay the lesser of the two amounts.

Ms. Stratford: If the effective date of increase has passed and there is no order from the minister authorizing the higher amount, the landlord is only entitled to collect the amount allowed under section 68.

Mr. Reville: How does the tenant know that? Because of the note attached?

Ms. Stratford: He knows that by the note that would be on the notice of rent increase informing him of that right.

Mr. Reville: Is the calculation done for the tenant, or is it left up to the tenant to figure it out?

Ms. Stratford: We have not yet designed this particular form, but, on the basis of the prior form, it will probably be just a general note.

The Acting Chairman: That is subsection 71(3). Subsection 71(4)?

Ms. E. J. Smith: Is subsection 71(3) agreed to?

The Acting Chairman: Agreed. Subsection 71(4). Agreed. Subsection 71(5)?

Ms. E. J. Smith moves that subsection 71(5) of the bill be struck out and the following substituted therefor:

"Any tenant affected by the application may submit material and make representations in respect thereto not later than 40 days before the effective date of the first rent increase applied for and where a tenant does so the landlord may submit material and make representations in response thereto not later than 40 days before the effective date of the first rent increase applied for or 20 days from the date of the tenant's submission, whichever is the later."

The Acting Chairman: Questions? Discussion? Agreed. Subsection 71(6). Agreed?

Mr. Reville: Stand that down, please.

The Acting Chairman: Stand down the whole section, then.

Mr. Reville: No. I agree with the rest.

Ms. E. J. Smith: Let him stand down the one subsection.

Mr. Reville: This relates precisely to the extension of time that I was concerned about, and I want to ruminate about that in my bed, if you do not mind. I dream about nothing else these days.

The Acting Chairman: If that is the wish of the committee, we can do that. Stand down only subsection 71(6).

On section 72:

The Acting Chairman: Stand down section 72.

Mr. Reville: Is section 72 stood down?

The Acting Chairman: That is correct.

Mr. Reville: Who did that?

The Acting Chairman: It has been suggested by Mr. Gordon.

Mr. Reville: Way to go, Jim. Hang in there.

On section 73:

The Acting Chairman: Ms. E. J. Smith moves that section 73 of the bill be struck out and the following substituted therefor:

"Where grounds set out in a landlord's application under section 71,

"(a) are only one or more of the financing costs, financial loss or economic loss; or

"(b) do not include any amount for capital expenditures,

"that the landlord has experienced or will experience in respect to the residential complex, the minister shall apply the percentage determined under clause 68 (1)(a) or (b), whichever is applicable, instead of the prescribed operating cost allowances."

You have heard the amendment. Are there questions or discussion?

Mr. Reville: Not agreed. Disagreed.

The Acting Chairman: Do you want to stand it down?

Mr. Reville: Yes.

The Acting Chairman: We will stand down section 73.

On section 74:

The Acting Chairman: Ms. E. J. Smith moves that subsection 74(1) of the bill be amended by inserting after "hardship" in the third line "or an allowance in respect of chronically depressed rent."

All those in favour of subsection 74(1)?

Mr. Reville: Stand down the whole section.

The Acting Chairman: Agreed.

On section 75:

The Acting Chairman: Ms. E. J. Smith moves that clause 75(1)(b) of the bill be struck out and the following substituted therefor:

"(b) when the expenditure is financed by borrowing, allow the value of any guarantees given by or on behalf of the landlord to the lender; and

"(c) allow the value of the landlord's own labour, if any, in carrying out the work involved in the capital expenditure."

Mr. Reville: I would like the whole section to be stood down.

The Acting Chairman: Stand down section 75.

On section 76:

The Acting Chairman: Are there any amendments to subsection 76(1)? Agreed? Subsection 76(2)? Mr. Gordon, do you have a question?

Mr. Gordon: Can you wait until we have an opportunity to read subsection 1, please? Okay. Agreed.

The Acting Chairman: Ms. E. J. Smith moves that subsection 76(2) of the bill be struck out and the following substituted therefor:

"Where an application is made by a landlord under section 71, if the revenue found in respect of the residential complex does not exceed the actual operating and financing costs by at least two per cent, the minister may, where he or she considers it necessary to relieve the landlord from hardship, allow the landlord the additional revenue required to raise the revenue to not more than two per cent above those costs."

Mr. Reville: Hold on to that page for a second. I want to check some notes.

I would be content if the next two amendments were read in. Why do you not read them all in?

The Acting Chairman: We have agreed to subsection 76(1). Do you want subsection 76(2) stood down?

Mr. Reville: There are two other amendments that can be read into the record.

Ms. E. J. Smith: I will read subsection 76(5), if everyone has had time to read subsections 3 and 4. I do not want to rush anyone.

The Acting Chairman: Ms. E. J. Smith moves that subsection 76(5) of the bill be struck out and the following substituted therefor:

"Where the minister allows a financial loss arising out of the circumstances set out in subsections (1) and (3), the minister shall not allow the percentage set out in subsection (2) except in the last year during which the financial loss is phased in, but then only where the amount attributable to the financial loss together with the amount allowed under subsection (2) does not exceed five per cent of the last lawful rents that were charged for the residential complex."

17:50

Ms. E. J. Smith moves that subsection 76(7) of the bill be struck out and the following substituted therefor:

"In making findings concerning financial loss under clause 72(e), the minister shall allow interest paid after the first day of August, 1985, at the prescribed rates on loans in respect of any financial loss incurred since the acquisition of the residential complex by the landlord, provided that where the financial loss arises out of an increase in financing costs resulting from a purchase or purchases or refinancing thereof in respect of the residential complex, the maximum allowed financing shall not exceed 85 per cent of the acquisition cost and only that portion of the interest paid on loans attributable to the maximum allowed financing shall be allowed."

We will go back to subsection 76(2).

Mr. Reville: Stand that down.

The Acting Chairman: And the other subsections?

Mr. Reville: The balance of that section.

The Acting Chairman: Stand down the whole section.

On section 77:

The Acting Chairman: Ms. E. J. Smith moves that subsection 77(1) of the bill be amended by striking out "and capitalized losses" in the 12th and 13th lines and inserting in lieu thereof "up to the amount of the acquisition costs of the residential complex, and capitalized financial losses."

Mr. Reville: I intend to stand this section down too, if you want to finish reading your amendments.

The Acting Chairman: Ms. E. J. Smith moves that clause 77(1)(b) of the bill be amended by striking out "10 year Canada Bond rate" in the third line and inserting in lieu thereof "Canada Bond rate for 10 years and over."

Ms. E. J. Smith moves that subsection 77(2) be amended by inserting after "of" in the fifth line "financial loss and."

Ms. E. J. Smith moves that clause 77(2)(a) of the bill be struck out and the following substituted therefor:

"(a) in respect of a residential complex, the permit for the construction of which was issued on or before the first day of July, 1986, the greatest of,

"(i) the amount required to eliminate the economic loss over a period of five years from the earliest effective date of rent increase set out in the first order made on an application under section 71,

"(ii) five per cent of the gross potential rent for the preceding year or the total of the amount required to eliminate the economic loss, whichever is less, and

"(iii) the amount required to eliminate the financial loss experienced in the preceding year; and."

Ms. E. J. Smith moves that subclause 77(2)(b)(i) be struck out and the following substituted therefor:

"(i) the total of the amount required to eliminate the economic loss and the financial loss together with the amounts otherwise justified in the application under section 71, and."

You have heard the amendments. Mr. Reville has indicated he wants the section stood down. We will stand down section 77, unless there are further questions.

One concern I had which I raised earlier was with respect to changing clause 77(1)(a) to December 31, 1986, rather than January 1, 1987. I recognize you cannot get a building permit on January 1, but it does make it consistent with the other dates. The ministry may want to take a look at that.

On section 78:

Mr. Reville: Stand it down.

The Acting Chairman: We will stand down section 78.

On section 79:

The Acting Chairman: Ms. E. J. Smith moves that section 79 of the bill be amended by adding thereto the following subsection:

"(3) In setting the maximum rents to achieve equalization under subsection (2), the minister may set a maximum rent for a rental unit that is less than the rent currently being charged for that rental unit."

Mr. Reville: Stand it down.

The Acting Chairman: In case anyone is concerned that we might not have enough work to do on Wednesday, we now have enough sections stood down that we will go at least to Wednesday.

On section 80:

The Acting Chairman: Ms. E. J. Smith moves that section 80 of the bill be amended by striking out "under this section" in the second line and inserting in lieu thereof "on an application made under section 71."

Mr. Reville: Let us save that up until Wednesday at 3:30 p.m.

On section 81:

The Acting Chairman: Ms. E. J. Smith moves that section 81 of the bill be amended by adding thereto the following subsection:

"(3a) In setting the rents to achieve equalization under subsection (3), the minister may set a rent that may be charged for a rental unit at an amount that is less than the rent currently being charged for that rental unit."

Mr. Reville: Stand it down. Why do we not make section 82 the last of the day?

On section 82:

The Acting Chairman: Ms. E. J. Smith moves that subsection 82(1) of the bill be amended by striking out "in respect of maintenance" in the sixth and seventh lines.

Mr. Reville: Stand that down. I would like to point out that the phrase "extraordinary operating costs" appears in subsection 82(1) and clause 72(b), and Dr. Laverty owes me a nickel. We had a bet last meeting.

Mr. Laverty: Mr. Reville, if you check Hansard, I mentioned both clause 72(b) and subsection 82(1).

Mr. Reville: I must not have heard you.

Mr. Laverty: I do not think that nickel is currently owing, but if Hansard shows otherwise, I will be pleased to pay.

The Acting Chairman: It does not matter to me whether he pays you the nickel, as long as it does not come out of ministry revenues.

Ms. E. J. Smith: When we meet again, Mr. Chairman, is it the intention of the committee that we are going to start at the beginning with

the stood-down sections, or are we going to continue through to the end before we do them?

The Acting Chairman: I am open to correction and at the mercy of the committee, but it is my assumption that we will continue through the bill to the end and then start again with the sections that have been stood down. Is that agreed?

Mr. Reville: Agreed.

The Acting Chairman: The suggestion has been made, since it is almost 6 p.m., that we adjourn until Wednesday at 3:30 p.m. Agreed?

Ms. E. J. Smith: Agreed.

The committee adjourned at 5:58 p.m.

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R-67

STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
WEDNESDAY, NOVEMBER 5, 1986

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsview L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, E. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Substitution:

Knight, D. S. (Halton-Burlington L) for Ms. Caplan

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Fader, J. A., Deputy Senior Legislative Counsel
Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Rent Review Advisory Committee:

Sifton, G.

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)
Laverty, P., Director, Rent Review Policy Branch, Rent Review Division
Stratford, L. A., Senior Solicitor, Rent Review Division
Peters, F. H., Executive Director, Rent Review Division

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, November 5, 1986

The committee met at 3:51 p.m. in room 151.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

On section 83:

Mr. Chairman: The resources development committee will come to order. When the committee adjourned on Monday, it is my understanding that we had completed to the end of section 82 of the bill, but the only parts that were agreed to and passed were the noncontroversial parts on which there was agreement among all three parties.

Since we have already started that process, today we should continue it to the end of the bill to determine the sections of the bill on which there is general agreement and pass them, determine whether there are amendments, and if there are amendments the government member will read those amendments into the record.

Mr. Gordon: Given the importance of this bill, I would like to know whether the minister is going to be with us as we proceed through the bill?

Ms. E.-J. Smith: My understanding was that he was going to be here. I notice that Kathy MacPherson is not here either. They may be at a meeting of some sort. By your leave, Mr. Chairman, since this portion of what we are doing is rather noncontroversial, perhaps we can go ahead. All we are doing is deciding what is not controversial and we do not really need the minister's assistance at this point. Perhaps he will settle whether something is controversial, but I am totally--

Mr. Reville: Some things become uncontroversial following a modicum of explanation.

Ms. E.-J.-Smith: Do you want me to go and look for him?

Mr. Reville: I see no officials here either. Perhaps we should just calm ourselves until somebody arrives.

Ms. E.-J.-Smith: I will go and take a quick look.

Mr. Reville: Mr. Sifton is all ready to go, but that is because he is with the private sector.

Ms. E. J. Smith: I am surprised to hear you say that, Mr. Reville.

Mr. Reville: I used to know about the private sector. They really

think we are ogres, do they not? Democratic socialists are viewed as people who are not connected with any reality whatsoever.

Mr. Chairman: On that note, until the minister and/or his staff gets here we will have a short adjournment.

The committee recessed at 3:54 p.m.

3:57 p.m.

Mr. Chairman: The committee will resume. We are dealing with clause-by-clause. We had gone through sections 1 to 82 as to whether there was general agreement or whether there were amendments. The sections on which there was general agreement were passed.

Hon. Mr. Curling: Is section 82 in?

Mr. Chairman: Section 82 was deferred but we dealt with it.

Ms. E. J. Smith: I have an amendment to subsection 83(3), but at the last meeting we were going through the 1, 2, 3 aspect, so it depends on how you wish to do it. I will wait until you hit subsection 3 if you wish.

Mr. Chairman: There is an amendment to subsection 83(3). Is there any comment on subsection 83(1)? We will work our way down to subsection 83(3).

Mr. Reville: No.

Mr. Chairman: Mr. Gordon?

Mr. Gordon: No.

Mr. Chairman: Not yet?

Mr. Gordon: No, I am fine.

Mr. Chairman: Subsection 83(1) is carried. Subsection 83(2)? Carried.

Mr. Chairman: Ms. E. J. Smith moves that subsection 83(3) of the bill be amended by striking out "submissions" in the fourth line and inserting in lieu thereof "representations," and by striking out "45" in the fifth and sixth lines and inserting in lieu thereof "40."

Motion agreed to.

Section 83, as amended, agreed to.

Section 84 agreed to.

On section 85:

Mr. Chairman: Ms. E. J. Smith moves that subsection 85(1) of the bill be amended by striking out "rented" in the second line and inserting in lieu thereof "occupied."

Motion agreed to.

Mr. Chairman: Subsection 85(2)? Carried. There is an amendment to subsection 85(3).

Ms. Smith moves that subsection 85(3) of the bill be struck out and the following substituted therefor:

"(3) An application under subsection 2 shall be made not later than 12 months after the day the first rental unit is occupied."

Motion agreed to.

Mr. Chairman: Subsection 85(4)? Carried. Subsection 85(5)? Carried.

Section 85, as amended, agreed to.

On section 86:

Mr. Chairman: There are no amendments to section 86. Are there any comments?

Mr. Reville: In this section, which relates to conditional orders, subsection 86(1) suggests a situation in which landlord and tenants may apply jointly. I wonder whether the minister or ministry officials care to comment on the circumstances under which such a joint application is likely to occur and whether there are procedural aspects in connection with such a joint application?

Mr. Laverty: The reference there would refer to a part-building review where the landlord and tenant, under sections 83 and 84, bring forward jointly an application for a part-building review related to a capital improvement on a specific unit. The reference in sections 86 is catching the possibility that this may be one of the circumstances under which a capital expenditure can be made.

Mr. Reville: To make this more concrete, I occupy a rental unit and the landlord and I agree that an additional bathroom will be installed. We agree on the scope of the work and the increase in the rent that will be attributable to that work, and we go off to the minister together for a conditional order so that we understand how the future will unfold. Is that the idea?

Mr. Laverty: My understanding is that the purpose of a part-building review is that the landlord and tenant may jointly wish to have a capital expenditure, but the matter of the determination of the amount of the expenditure as it is passed through into rent is still something that is reviewed by the minister.

Mr. Reville: Yes.

Mr. Laverty: If a landlord and tenant do not jointly agree to a price when they make the application, that is determined by the minister.

Mr. Reville: But the landlord and tenant are not precluded from agreeing on these matters. You cannot contract out of the bill, but you can certainly jointly agree to go forward to the minister, can you not?

Mr. Laverty: If you look at subsection 84(1), "the minister shall determine the rent increase for each rental unit...that is justified by,"

first, the offering cost allowance; second, the capital expenditure; third, the management and administrative amount; fourth, any other matters that are subsequently prescribed.

There is no provision for the landlord and tenant to agree on a price that is not related to the matters set out in subsection 84(1). If the landlord and tenant are adding a new bathroom, they cannot decide to add \$100 to the rent without reference to what the expenditure happened to be and what the appropriate writeoff period was.

Mr. Reville: Indeed. However, I thought the point of the conditional order was that it created an amount of certainty that would be useful to the parties.

Mr. Laverty: That is the case. It means that the minister will go through the application that has been jointly made and tell the parties what the award will be provided the capital expenditure is carried out and subject to the actual amount that is spent, which can vary under subsection 86(2).

Mr. Reville: This brings me to a question that has just come up. Under the current Residential Tenancies Act, is it possible and probable that an order of the Residential Tenancy Commission in respect of capital expenditures might provide a condition that the capital expenditures were required to be completed?

Mr. Laverty: Under the current procedure there has developed a practice within the commission to wait for what is referred to as substantial completion before an award is made.

Mr. Reville: So that is a condition?

Mr. Laverty: Yes, and we do not really intend to alter that. The award that is made to the landlord is not made in advance of the expenditure. In the early days of rent review, there were occasions when capital expenditures were awarded prior to the expenditures being completed or, in some cases, undertaken. Some problems came up where landlords did not carry through on their intended projects. That was one of the reasons the Residential Tenancy Commission moved away from awarding these things until substantial completion had occurred.

Mr. Reville: In any event, I assume that if an award is made in respect of capital expenditures contemplated and that does not occur, the tenant has some recourse to make an application for a variation of the award under the current and proposed legislation.

Mr. Laverty: The process that we will put in place with regard to the regulations will specify, once again, that substantial completion has to occur.

Mr. Reville: Failing substantial completion, what is the recourse?

Mr. Laverty: Until substantial completion has occurred, the award will not be made. Once it has occurred, the award will be made.

Mr. Reville: Will the regulations deal with the question of what substantial completion is, or is that a definition similar to that which used to obtain under the old mechanics' lien legislation?

Mr. Laverty: I hope not.

Mr. Reville: This is a trick question, Dr. Laverty.

Mr. Laverty: Undoubtedly so. The degree to which we define "substantial completion" in a regulation is difficult. There is an inherent matter of judgement that must occur about what is substantially completed and what is not. Beyond specifying in the regulation the requirement of substantial completion, I am not sure how much further you can go in a matter that is inherently a matter of evidence.

Mr. Reville: Upon whose judgement will we rely?

Mr. Laverty: In the first instance on the ministry, and on appeal on the hearing board.

Mr. Stevenson: Can I continue with a question here? I was talking to Mr Gordon at the end and I may have missed this. The landlord and tenant go to the minister or his designate. Let us say the formula states there should be a \$75-a-month increase in rent for whatever capital work was done, bathroom or otherwise. As I understand it, the landlord can agree that for some reason he will choose to charge only \$65, and that can be done; it does not have to be a \$75 increase.

16:10

Mr. Laverty: Mr. Stevenson, under the act the amount of rent increase that a landlord requests may differ from the amount that he can justify. In particular, if the amount that he is requesting by way of notice to the tenant is \$65 and he justifies \$75, then under section 87, which is the next one we will come to, the maximum he can collect this year is \$65. However, his maximum rent would go up by the \$75; that is, next year, if he so chose, he could get that \$10 in addition to whatever the guideline gave him, without a reference to rent review.

Mr. Stevenson: What happens if the tenant is so delighted to have this work done to his or her apartment, it having been a problem for some time, if it is such a relief to have this that the tenant is willing to pay an extra \$10 a month to have this work done? Can they write up an agreement for an \$85 increase rather than \$75?

Mr. Laverty: That is not my understanding. The matters for the minister to consider would not include a voluntarily agreed amount between landlord and tenant, so it is not a matter that we have provided for as the current act is structured. The landlord and tenant cannot contract for a higher rent increase than would be awarded on consideration of what the capital expenditures is worth in terms of the cost and the imputed rate of return and the management (inaudible)

Mr. Chairman: If they did, they would have an illegal rent.

Mr. Laverty: Yes. It would be beyond that authorized by the act.

Mr. Reville: The heavens would open.

Ms. E. J. Smith: His computer would explode.

Mr. Chairman: Okay, Mr. Stevenson?

Mr. Stevenson: I am not sure it is okay, but it does answer my question.

Mr. Chairman: Do you have anything else on subsection 86(1)? Does subsection 86(1) carry? Carried. Is there anything on subsection 86(2)? Does subsection 86(2) carry? Carried.

Section 86 agreed to.

On section 87:

Mr. Bernier: I wonder if staff can give us an explanation or an example of when a rent increase greater than applied for would be awarded.

Mr. Laverty: One example would be that the landlord gives a notice of rent increase to the tenant for 10 per cent. He comes to rent review, and his costs justify a 12 per cent increase. The rent review award would be for 10 per cent this year, but the additional two per cent could be captured next year if the landlord so chose. He has established that as a valid cost; however, the notice that he gave to the tenant of how large his rent increase would be would override the fact that his costs had gone up by that amount.

Mr. Bernier: He could pick it up in the following year.

Mr. Laverty: Yes, he could.

Mr. Chairman: Is there anything else on section 87?

Mr. Reville: Yes. I think it was the Parkdale Tenants' Association that was concerned about rent increases above requested levels being not allowed. This would not allow them in the first year but would in the second?

Mr. Laverty: Yes. The principle is that the landlord has established that is a valid cost increase, which would be allowable under the act, and it is simply a question that he has forgone the full amount this year. Rather than bring him back to rent review to reprove that cost, we would simply let it pass through in the subsequent year.

Mr. Reville: I have a couple more questions. Does this apply to conditional determinations as well as to other determinations?

Mr. Laverty: There are only two conditional determinations.

Mr. Reville: In other words, a determination under section 85 or 86?

Mr. Laverty: Yes. A conditional order does not have any force until it is confirmed by a final order, that is, until it has been brought back and confirmed, so it really would not have very much impact. It is only where you have a final order, not a conditional order of the minister, that section 87 would have that effect.

Mr. Reville: So 87 is in respect of a final order.

Mr. Laverty: Yes.

Mr. Reville: When the order is made, does the minister include in it the rent for each unit that is covered by the order?

Mr. Laverty: Yes. Every rental unit's rent is specified.

Mr. Reville: Thank you.

Mr. Bernier: Do the landlords have a position on section 87? If you went to the rent review and your original application was 10 per cent and they gave you 12 per cent--

Mr. Sifton: We have come to accept the fact that we are obligated to give notice to tenants and we are not entitled to collect more than we give notice for.

Mr. Bernier: There could be an error in your presentation or you could have made a mistake.

Mr. Sifton: There could have been an error in our calculations by which we calculated our increases and, therefore, our notice to the tenants, but, in fact, the notice to the tenants has been, historically, what governs in any event. That is the overriding document. In other words, we cannot collect more than we said we were going to collect.

One of the positives to this from the landlord's point of view is that the landlord can send a notice to a tenant for 4 per cent and be taken to rent review and justify it and be told he could have collected 8 per cent. So he is not going just to defend himself from a 4 per cent increase.

Mr. Bernier: It is quite conceivable that some small landlords would make that mistake.

Mr. Sifton: It is quite conceivable they will make that mistake, and unless they are taken to rent review or unless they choose to go to rent review, the mistake will never be picked up. The order is the only stage at which that error by a landlord may be picked up.

I am not sure that it is fair to say that the landlord can make a totally honest error and not be able to justify too much and, therefore, cannot have it, but he can make a totally honest error under which he could have justified more and he still cannot have it. I am not sure that is balanced but that is the way it is.

Mr. Bernier: Some equity.

Mr. Chairman: I guess it was one of those tradeoffs by the Rent Review Advisory Committee.

Mr. Sifton: It certainly was a tradeoff we reached. There is no question.

Ms. E. J. Smith: On the other hand, it is the landlord's application and tenants might choose to examine it a lot more closely if it were high than they would if it were too low. The right for notice on the part of tenants enters into that. If the landlord gives notice of 5 per cent and they decide not even to bother fighting it and, in fact, the landlord gets 10 per cent, they would not have had fair notice to look into it. I think it is fair and I do not think it is different from the present situation, as far as not being able to get more than you ask for is concerned.

Mr. Bernier: The landlord is being very generous--

Ms.-E.-J.: Smith: The landlord made a mistake and, as Mr. Sifton points out, if he had not gone in and got some help, he would not know he had mistake anyhow. He might have carried on for two years without getting the extra money in his error.

16:20

Mr. Elms: If someone were to look at this strictly in the light of this particular clause, he could get the impression that this is an instance where the landlord is hard done by. However, realizing there are many other clauses in the bill and many other reasons for increases and decreases that are justified by the act, we will see that there are circumstances, for instance, costs across the board, which go down at one particular time but, in fact, are not calculated out of the rent for some period of time afterwards.

The delicate balance that has so often been referred to is now starting to come to light. There is a loss in perhaps one year of some small amount; on the other hand, there is the opportunity for gain on other amounts. Unless you want to see things coming in and out of this rent review process every couple of weeks, there has to be some measure of tradeoff that is fair.

Mr. Bernier: I suppose we are only dealing with section 87, but it is an odd way to run the store.

Mr. Reville: This is the most complicated store anyone has ever run, Mr. Bernier.

Hon. Mr. Curling: But it is not lost for ever, you know. You are indicating that the amount of increase lost is lost for ever, but it is not. The landlord comes back the next year and goes through the process of justification and gets it back.

Mr. Elms: On the other hand, costs no longer borne are sometimes lost for ever.

Mr. Chairman: Anything else on 87? Shall the section carry? Carried.

Section 87 agreed to.

On section 88:

Mr. Chairman: Shall 88(1)(a) and (b) carry?

Mr. Reville: Shall not carry.

Mr. Chairman: Stand the subsection down.

Mr. Reville: I have just observed that this is the section on which 61 separate comments or recommendations were made by the public to this committee. It is a bill in itself.

Mr. Chairman: It is chronically depressed.

Mr. Gordon: It gives me a chronic headache.

Mr. Chairman: Subsection 88(1) has been stood down. How about subsection (2)?

Ms. E. J. Smith moves that subsection 88(2) of the bill be amended by inserting after "section 71" in the first line "not later than two years after the day this section comes into force."

Do you understand the amendment? Shall subsection 88(2), as amended, carry?

Mr. Reville: It has been our practice where a section or part thereof has not met with unanimous approval that we have stood the whole section down, with one exception I think.

Mr. Chairman: Fine.

Ms. E. J. Smith moves that subsection 88(3) be amended by striking out "approval" in the fifth line and inserting in lieu thereof "written approval."

Ms. E. J. Smith moves that subsection 88(4) of the bill be struck out and the following be substituted therefor:

"(4) Where on the application in the prescribed form of a tenant or on the minister's own motion the minister finds a significant deterioration in the standard of maintenance and repair in respect of the rental unit or the residential complex in which it is situate has occurred after the date of the order mentioned in subsection (2), the minister may order that the landlord no longer charge the allowance referred to in subsection (2) or any part thereof, or the increase in rent charged for a rental unit pursuant to subsection (3), and may declare the maximum rent that may be charged for the rental unit or units affected.

"(5) An application or order under subsection (4) may not be made after the expiry of twelve months from the date that the rent for the rental unit is no longer chronically depressed."

The amendments have been read in and they will be deferred with the rest of section 88.

Mr. Reville: Before that whole section disappears into the stood down category, it is again appropriate to ask whether the Rent Review Advisory Committee has concluded its wrestling with which equity definition it wants to use, equity L or equity T.

Mr. Chairman: Good question.

Mr. Sifton: I have to say we have not. We have been meeting, but we have not decided.

Mr. Reville: That leads me to suggest that that information is a great deal of importance to the committee because depending on the definition that is chosen and is recommended by the government, you are dealing with twice as many or half as many units. I think that is fair way to express it.

Mr. Chairman: That is what we were told the other day.

Ms. E. J. Smith: Yes, that is correct.

Mr. Chairman: Any further questions or comments on subsection 88(5)? The entire section is stood down.

On section 89:

Mr. Chairman: There are amendments to clause 89(1).

Ms. E. J. Smith moves that subsection 89(1) of the bill be amended by striking out "or" at the end of clause (b), by adding "or" at the end of clause (c) and by adding thereto the following clause:

"(d) relieving the landlord from hardship under subsection 76(2) or (5)."

Ms. E. J. Smith moves that subsection 89(1) of the bill be amended by adding thereto the following clause:

"(e) recovering financing cost increases that are subject to phasing in under the prescribed rules."

Any comments on subsection 89(1)?

Mr. Reville: I request that it be stood down.

Mr. Chairman: Section 89 is stood down.

On section 90:

Mr. Chairman: Ms. E. J. Smith moves that subsection 90(1) of the bill be amended by striking out "two per cent" in the ninth line and inserting in lieu thereof "one per cent."

Ms. E. J. Smith moves that subsection 90(3) of the bill be amended by striking out "and the earliest date that each may take effect" in the fourth and fifth lines and inserting in lieu thereof "and the date, not being earlier than the date the lower rate of interest became applicable, that each shall take effect."

Any comments on section 90? Do you wish to deal with it or stand it down?

Mr. Reville: I would like it stood down.

Mr. Chairman: Stood down.

On section 91:

Mr. Chairman: Ms. E. J. Smith moves that subsection 91(1) of the bill be amended by inserting after "application" in the fourth line "in the prescribed form."

Ms. E. J. Smith moves that clause 91(5)(a) of the bill be struck out and the following substituted therefor:

"(a) the minister shall make a notice setting the maximum rent that may be charged for the rental unit under review and the 12-month period during which that maximum rent shall be in effect."

Do you wish to deal with section 91 or stand it down?

Mr. Reville: Stand it down.

Mr. Chairman: Stood down.

On section 92:

Mr. Chairman: There is an amendment to subsection 92(2).

Ms. E. J. Smith moves that subsection 92(2) of the bill be amended by inserting after "application" in the first line "in the prescribed form" and by inserting after "charged" in the second line "the tenant."

Ms. E. J. Smith moves that subsection 92(3) of the bill be amended by inserting after "and" in the 11th line "Part XI of."

Does the committee wish to deal with section 92 or stand it down?

Mr. Reville: Stand it down.

Mr. Chairman: Stood down.

On section 93:

16:30

Mr. Chairman: There is an amendment to section 93.

Ms. E. J. Smith moves that section 93 of the bill be amended by inserting after "expenditures" in the fifth line "are substantial and."

Do you wish to deal with section 93 or stand it down?

Mr. Reville: Stand it down.

Mr. Chairman: Stood down.

On section 94:

Mr. Chairman: Ms. E. J. Smith moves that subsection 94(3) of the bill be amended by striking out "places" in the fourth line and inserting in lieu thereof "spaces."

Ms. E. J. Smith further moves that subsection 94(5) of the bill be struck out and the following substituted therefor:

"(5) Where the minister by order under subsection 13(3) determines that an agreement under subsection (4) has been entered into as a result of some form of coercion, the agreement is not enforceable.

"(6) An increase in rent charged in accordance with this section does not constitute an increase in rent charged for the purposes of section 67."

You have heard the amendments. Do you wish to deal with section 94 or stand it down?

Mr. Reville: I have no objections to 94 being dealt with now.

Mr. Gordon: That is fine. I agree.

Mr. Chairman: Shall section 94, subsections 1 through 6, as amended, carry?

Section 94, as amended, agreed to.

On section 95:

Mr. Chairman: Ms. E. J. Smith moves that section 95 of the bill be struck out and the following substituted therefor:

"Where a rental unit that has been rented at any time on or after the 29th day of July, 1975, has subsequently been not rented for any period of time and then again becomes rented, the maximum rent shall be the amount the landlord would have been entitled to charge if the unit had been rented during the period it was not rented and the landlord had given notice or notices of rent increase in the amount permitted by this act, the Residential Premises Rent Review Act, 1975 (2nd Session) or Part XI of the Residential Tenancies Act."

Mr. Gordon: Stand it down.

Mr. Chairman: Stand down section 95.

On section 96:

Mr. Chairman: Ms. E. J. Smith moves that section 96 of the bill be struck out and the following substituted therefor:

"The rent charged by a landlord for a rental unit when the unit is rented for the first time on or after the 29th day of July, 1975, shall be deemed to be the maximum rent for that unit as of the date it so becomes rented for the first time, except as otherwise provided in the regulations made under this act."

You have heard the amended section. Do you wish to deal with it or stand it down?

Mr. Reville: To the extent that we have held down the definition of "maximum rent" on page 1 of the bill, and section 96 refers to maximum rent, it might be sensible to hold this down, not that the content of the section troubles me, but should something odd happen to the concept of maximum rent, the government might want to rethink whatever section 96 does. I have forgotten what it does; it is first-time rent. Perhaps for safety's sake, we had better stand it down.

Mr. Chairman: Do you wish to stand this one down? All right. I would simply offer a friendly reminder that in subsection 94(2) there is a reference to maximum rent as well.

Mr. Reville: There you go; it is consistent.

Mr. Chairman: However, that has never interfered with this committee's deliberations before.

Let us move on. Section 96 is stood down.

On section 97:

Mr. Chairman: Ms. E. J. Smith moves that clause 97(1)(a) of the bill be struck out and the following substituted therefor:

"(a) collect or attempt to collect from a tenant or prospective tenant of the rental unit any fee, premium, commission, bonus, penalty, key deposit or other like amount of money";

Ms. E. J. Smith further moves that subsection 97(2) of the bill be amended by striking out "shall" in the first line and inserting in lieu thereof, "or any person acting on behalf of the tenant shall, directly or indirectly."

Ms. E. J. Smith further moves that clause 97(2)(c) of the bill be struck out and the following substituted therefor:

"(c) collect or attempt to collect from any tenant or prospective tenant any consideration, fee, premium, commission, bonus, penalty, key deposit or other like amount of money, for subletting the rental unit or any portion thereof, for assigning a tenancy agreement for the rental unit or for otherwise parting with possession of the rental unit; or."

You have heard section 97, as amended. Are there any comments?

Mr. Reville: I wonder whether the committee could tolerate a moment of dead air.

Mr. Chairman: That might be desirable.

Ms. E. J. Smith: In my apartment, I have had two such notices under my door in the last little while.

Mr. Reville: Dead air?

Ms. E. J. Smith: Bribery and corruption.

Mr. Chairman: While members are perusing this section more carefully, although I was not here on Monday, it is my understanding an update on regulations was promised by the ministry. Am I correct?

Hon. Mr. Curling: Yes. I promised to give an update of where the regulations are. They are still being worked on and are not complete yet.

Mr. Reville: In view of the fact that Mr. Gordon has as intense an interest in these regulations as does everyone else, perhaps that item might better be returned to when he returns.

Hon. Mr. Curling: I will have no problem at all in repeating it.

Mr. Reville: I have now had enough dead air to request that section 97 be stood down.

Mr. Chairman: Section 97 is stood down.

Mr. Reville: I wanted to ask a question about 97, though. Something was raised during the hearings, and I cannot remember whether it was resolved. Perhaps one of the issues I am concerned about can be dealt with very simply. It is the question of an administrative fee that is charged commonly on a sublet. Is that not prohibited by this section?

Mr. Laverty: I will request legal counsel to respond to that one.

Mr. Reville: A good question, obviously.

Mr. Chairman: The chair is anxious for this answer too, since he has been victimized.

Ms. Stratford: Are you referring to the charge by a landlord of his reasonable expenses allowed under the Landlord and Tenant Act to a tenant who wants to sublet?

Mr. Reville: Yes.

Ms. Stratford: It is our interpretation that this section would not catch that payment, because the landlord is merely charging his expenses. Those expense are allowed to be charged under the Landlord and Tenant Act, and we believe those expenses would not be caught by the wording of our section 97.

Mr. Reville: Can you suggest to us what expenses have been considered to be reasonable: \$50, 25, \$150?

Ms. Stratford: No. That issue remains under the Landlord and Tenant Act.

Mr. Reville: I know you are familiar with that act.

Ms. Stratford: This bill does not address the issue of what would be a reasonable expense in that situation.

Mr. Reville: We have some concern about administrative fees these days with respect to other matters. It would be shame to start extra billing in the Landlord and Tenant Act as well as under the Health Care Accessibility Act. Perhaps Mr. Peters, who knows a great deal about the world, can tell us what fees have been considered to be reasonable in respect of sublet charges under the Landlord and Tenant Act, keeping in mind that the chairman of this committee has been victimized.

Mr. Chairman: Quite grievously.

Hon. Mr. Curling: It depends on the market.

Mr. Reville: Before he was victimized, he was taller.

Mr. Chairman: The marketplace victimized me.

Mr. Stevenson: Was this in your apartment or before you got into your apartment?

Mr. Reville: It was in the hallway, outside the apartment.

Mr. Peters: Speaking from my own direct, personal experience, at one point I paid a sublet fee of \$50 and found that not to be unreasonable. I am not in a position to offer comment upon what other charges may or may not have been deemed reasonable or unreasonable by other people.

16:40

Hon. Mr. Curling: You were desperate at the time.

Mr. Chairman: The personal experience of the director of rent review is of inestimable value to this committee.

Mr. Peters: It was at least worth \$50.

Mr. Reville: Can you comment on a recent issue in which tenants were being asked to pay \$150 for an actual key? This is taking key money right to the literal translation, and it is happening at this very moment as we speak.

Mr. Peters: I will refer that one to the senior solicitor. As I understand the issue, at least as it was reported in the press, there was no charge, that is, a key deposit for the signator to the lease. The issue was somewhat clouded by the fact that there was a charge for extra keys for people not listed on the lease. I am not in a position to offer a comment on that as to whether it may be a matter for some concern under the Landlord and Tenant Act, so I will defer it to the senior solicitor, Mr. Reville.

Ms. Stratford: I only know what I have read in the newspapers about the facts of that case, but I gather the landlord was charging other residents of the unit who were not listed as tenants on the lease an amount of money to get a copy of the key. I suggest that is not "key money" within the definition of our section, unless you can interpret it to mean that the tenant is in some way being charged, even though the tenant himself is not the one paying money.

Mr. Reville: This question may be tried, I understand. Is that something that would be covered by the Landlord and Tenant Act rather than this legislation?

Ms. Stratford: It could be covered by the Landlord and Tenant Act, but it could also be covered by this legislation if that amount of money is found to be rent, if the definition of rent is found to apply to that payment.

Mr. Reville: It is a question of evidence, then?

Ms. Stratford: Yes. The facts of the case would have to be examined and a determination made.

Mr. Reville: Perhaps by the Unconscionable Transactions Relief Act, too. It is a neat act. Never mind. That was editorial, Mr. Chairman.

Mr. Chairman: Section 97 has been stood down, so we move to section 98, the end of the appeals section.

On section 98:

Mr. Chairman: Ms. E. J. Smith moves that subsection 98(3) of the bill be amended: (a) by striking out "under subsection (1)" in the first and second lines; (b) by adding at the end of clause (a) "or notice given under subsection 27(1)"; and (c) by adding at the end of clause (b) "or notice given under subsection 27(1)."

Ms. E. J. Smith moves that subsection 98(4) of the bill be amended by adding at the end thereof "or in response to a notice given under subsection 27(1)."

Mr. Reville: I have a question which relates to a matter we have discussed before, and I want to reassure myself that the same conditions obtain. The appeal period begins to run on the giving of an order or the disposition of an order rather than some mechanical act of mailing something or receiving something. Is that right?

Mr. Laverty: Yes. The date is as of the giving of the order, not of the receiving. As we indicated in amendments we brought forward earlier in the act, it is a good deal more straightforward to establish the date at which it was given rather than the date at which it was received.

Mr. Reville: Can you refer us to those amendments, please? It is a big bill.

Mr. Laverty: One example would be subsection 27(2) where we made such a change.

Mr. Reville: That was an amendment.

Mr. Laverty: Yes. There are a number of others. Do you wish us to search the bill for such references? If so, do I get a nickel apiece for each one I find?

Mr. Reville: Only as a setoff against the nickel I believe you already owe me. No, as delightful as it is to search through this act, I do not want to subject you to any more than is absolutely necessary. Thank you, Mr. Chairman.

Mr. Chairman: Do you wish to deal with section 98 or stand it down? Shall subsections 98(1) to (7), as amended, carry?

Sections 98, as amended, agreed to.

On section 99:

Mr. Chairman: Ms. E. J. Smith moves that subsection 99(1) of the bill be struck out and the following substituted therefor:

"(1) On the hearing of an appeal, the issues will be limited to those raised in the initial application, or raised in a matter brought on by the minister's own motion, unless the board otherwise allows."

Are there any comments on 99(1) through (4)? Do you wish to deal with it?

Mr. Reville: I wish to question the minister. I understand that the amendment is designed to narrow the scope of issues to be dealt with on appeal, but it does have a qualifier that the board can allow issues to be dealt with that are broader than those in the application or the minister's motion. Will that be further defined by regulation?

Hon. Mr. Curling: Yes, it is intended that the procedure for what will happen in the administrative hearing will be laid down in the regulations.

Mr. Reville: With respect, Minister, we have gone past that. We are now in the appeal. Whatever has occurred in the administrative review has occurred. I am wondering what the conditions are that the board would entertain before they broadened the scope of the appeal.

So that there be no misunderstanding about the direction of my questioning, I have concerns that if issues are not addressed in the administrative review, and they may not be, because it is an informal process, there may be no way to deal with them at all unless the board so decides.

Hon. Mr. Curling: My understanding of the appeal is that if there is

evidence that could help the commissioner or the hearings officer make his decision better, he can ask for additional information.

Mr. Reville: That is not what the section says. Section 99 does not appear to say that. It says "the issues will be limited," and it seems to me the issues will be limited.

Mr. Cordiano: Subsection 3 calls for any evidence to be brought forward.

Mr. Reville: But it says "relevant to the issues."

Mr. Cordiano: Relevant to the issues, I agree, granted. Nevertheless the scope of that--

Mr. Reville: I am suggesting a situation in which the issues raised at administrative review were related to capital expenditure. But suppose during the time that passes between administrative review and appeal, evidence is discovered that suggests that the operating costs have gone down markedly, or increased markedly. It appears from this section that issue cannot be dealt with unless the board allows it to be, and that would clearly have an impact on what kind of costs the landlord was subject to and what the award should be.

Mr. Laverty: It might be useful, once again, to call on the senior solicitor to indicate to the committee the difference between the limitation on issues in subsection 1 and the fact that evidence is not limited under subsection 3, so that we would be clear as to what is or is not limited under section 99. You are aware, of course, that in the pre-hearing the matter of what issues will be considered will be discussed. That is under section 101.

16:50

Mr. Reville: Yes, but I am not reassured thereby.

Mr. Laverty: Perhaps if we just start with a distinction between the issues and the evidence, it might at least put us on a firmer footing in terms of what the parameters are.

Ms. Stratford: Yes. Maybe we can use the example of a whole building review application on which a number of grounds can be entertained.

Mr. Reville: Yes.

Ms. Stratford: If the landlord raises all those grounds--

Mr. Reville: Then you are okay.

Ms. Stratford: --then under section 99, if the parties agree, these issues can be limited to something less, but otherwise you would go back and consider all of the grounds again. I presume your example is based on where all those grounds are not raised and the tenants at the time also do not raise them.

Mr. Reville: That is right, which in my experience happens fairly frequently.

Ms. Stratford: If on a whole building review the various findings that are made are classified as separate issues, then it would be at the discretion of the board to allow evidence on them under this section.

Mr. Reville: Yes. That is the answer, Mr. Chairman. Now I would like the section stood down.

Mr. Chairman: Section 99 stood down. See what you did, Ms. Stratford.

On section 100:

Mr. Chairman: Ms. E. J. Smith moves that section 100 be amended by adding the following subsection thereto:

"(3) Where, before the hearing of an appeal has commenced, a party to the appeal who has filed a request under subsection (2) files with the board a withdrawal of the request in the prescribed form, the appeal may, with the consent of the board, be heard by a single member of the board."

Are there any comments on section 100?

Mr. Reville: I have no comments.

Section 100, as amended, agreed to.

On section 101:

Mr. Chairman: Ms. E. J. Smith moves that subsection 101(2) of the bill be struck out and the following substituted therefor:

"(2) The member of the board who conducts the conference may make such written recommendations as he or she considers necessary or advisable arising out of the matters discussed at the conference and any such recommendations shall be placed on the board's record file pertaining to the appeal.

"(2a) Any party to the appeal is entitled to examine the recommendations made under subsection (2) and may submit representations in respect thereof to the board at the hearing of the appeal."

Are there any comments on section 101?

Mr. Reville: Yes. A number of issues were raised by an outfit in Ottawa called Regional Realty Ltd., which I do not understand very well, but maybe if we address them, we will all understand them and we will be much the wiser, which is probably a consummation devoutly to be wished.

In respect of this pre-hearing conference, I refer you to page 119 of Mr. Richmond's fourth volume in respect of Bill 51. It is all there and it says:

"A pre-hearing date should be established within 30 days of the date of the appeal and the pre-hearing should occur within 45 days from the time of the appeal. The appeal should be heard by a member of the board who must within 10 days from the pre-hearing determine whether the appeal items have merit or not. If any appeal item is deemed to be of a frivolous nature and the party issuing the appeal insists that the frivolous item be considered by the board as a whole, there should be a financial cost involved to continue the appeal process." No giggling is allowed during this reading.

"If the appeal board deems in its decision that the appeal item was not of a frivolous nature, these funds would be returned." It seems to me that you put some money down to guarantee that you are not going to be silly. "Any

items which are determined to be of a nonfrivolous nature from the pre-hearing and are not settled between the parties may be heard at an appeal hearing."

Regional goes on to say, following another bullet: "The party initiating the appeal would have 10 days following a pre-hearing decision to decide whether or not to proceed. If it is determined to proceed, then the hearing should be scheduled within 20 days and to be held within the next 30 days."

Whatever does all that mean? Are those concerns dealt with in subsection 101(1), are they dealt with by regulation or do they not need to be dealt with?

Mr. Chairman: Mr. Richmond, did you wish to add something to this?

Mr. Richmond: I have just one comment, Mr. Chairman. I pulled these bullet points out of the brief of the gentleman up in Ottawa who raised these points. My recollection is that he was concerned, based upon his experience under the current Residential Tenancies Act, that he got into what he perceived to be a never-ending period of appeals and counter-appeals. If my recollection does not fail me, he was a landlord--

Mr. Reville: Horrors.

Mr. Richmond: -- and he was concerned that the appeal mechanism needs some sort of finality to it. From reading his brief and extracting these statements, he was proposing that set deadlines be specified to the whole appeal process. That is my understanding of how these two points came to be. If that is of assistance to you--

Mr. Reville: It is. I am still interested in what the Ministry of Housing or the senior solicitor may have to offer us on this score. You may not have the benefit of all this verbiage. Would you like to look at it, Ms. Stratford?

Mr. Laverty: There are two basic policy questions here. There is some question of interpretation, but one of the questions is whether there should be a certain amount of money potentially at risk if the hearing board decides that a particular application is frivolous.

Way back at the beginning of Bill 78 I think we had drafted in an amount that might be charged on appeal. We had a great many representations from tenant groups indicating that in some cases tenants of limited means might be deterred by the charging of a fee and we agreed to take that out when we proceeded with Bill 51. This would not be a charging of a fee in all cases; nevertheless, there would be some risk to the tenant that a fee could be charged because the board decided that it was a frivolous item. I do not think we would be wildly enthusiastic about that part of the suggestion.

The other part of the suggestion has to do with the imposing of a series of time limits on the appeal board. You are aware that under the legislation we are imposing a number of time limits on the administrative review process to move it along more expeditiously so that decisions can be made in good time. When you are talking about the appeal board, we would have to give a good deal of consideration both to the general concept of timing and to whether the timing should be the timing that is specified here.

The two considerations we would want to reflect on are: first, the logistics of those appeal deadlines, given the fact that you are dealing with the scheduling in a number of cases of three-person boards, and how you would

schedule their time appropriately within those time frames; second, given the nature of a hearings board, there is some question as to the desirability of imposing time limits on it. Because it is an independent tribunal in a sense, operating independently of the ministry, exercising functions that some might argue are in the area of administrative law, we might want to reflect very carefully before making a decision to impose time limits on that nature of a hearings board.

17:00

The bottom line is that I do not think I would be prepared at this point to respond favourably to the request. However, if the committee so chose, we might reflect on whether we should go in that direction.

Mr. Reville: You mean if the committee interrupted the delicate balance?

Mr. Laverty: It is not so much a question of delicate balance here, but we would want to reflect on the appropriateness of imposing time limits on this nature of institution we are setting up as a hearings board.

Mr. Reville: Given that the award of the administrator is not stayed by the appeal, perhaps the open-endedness of this time line is of little financial concern.

Mr. Laverty: I believe the senior solicitor wishes to offer some comment on this point.

Ms. Stratford: I might direct you to a couple of statutory provisions that do address this area. Section 46 of the bill imposes a statutory obligation on the board to adopt expeditious procedures, bearing in mind its obligation to afford the persons an adequate opportunity to be heard. Section 23 of the bill allows the board to refuse to continue a proceeding if it is found to be trivial.

Mr. Reville: Sorry. I lost the latter section.

Ms. Stratford: Section 23.

Mr. Reville: That deals with trivial, frivolous, vexatious or in mala fide.

Ms. Stratford: That is correct.

Mr. Gordon: What are some of the logistics you refer to that it might reflect upon?

Mr. Laverty: The consideration I raised was if you are going to be appointing, in some circumstances, three-person boards, the logistics of scheduling three people is more difficult than the logistics of scheduling one. It may necessarily take more time to arrange a scheduling of hearing officers so you could process it within any given time frame. Obviously, that is not a totally overriding consideration, but you would have to reflect on it in specifying what the day limits would be if you were imposing it.

Mr. Gordon: Is the hearings appeal board being set up for the convenience of the hearings board administrator, or is it there for the tenants and landlords?

Mr. Laverty: It is not so much a matter of in whose interest it is being set up. It is in everybody's interest that the hearing board members are assigned cases in an orderly fashion, so they will have adequate time to review the material prior to the hearing. That is basically what we are indicating. In order to allow for that kind of schedule, the time frames might not be as tight as those that are specified in the suggestion. It is purely a work-load scheduling question.

Mr. Gordon: Certainly, other ministries have had hearing boards and your ministry has their experience to fall back on. I do not quite understand why you are taking this point of view.

Mr. Laverty: I indicated that it would be a consideration in setting the time deadlines, if you decided to do so. I did not say, of and by itself, it would argue against the imposition of time deadlines. The question of whether you should rather relates to the other point I made, that is, whether it would be appropriate for such a hearings board with the type of powers it had, whether that kind of administrative law tribunal should be bound by a series of dates in the legislation.

I simply raise the question at this point without in any way indicating what our preference would be. We would want to reflect on that matter before responding.

Mr. Gordon: The word "appropriate" intrigues me. How can you say it would appropriate or inappropriate? On what do you base that statement?

Mr. Laverty: That is the question we would wish to reflect on before responding to it.

Mr. Gordon: That sounds like a political answer.

Mr. Chairman: How would you recognize that?

Mr. Gordon: Reflect. You want to reflect on the appropriateness of this.

Mr. Laverty: Yes.

Mr. Gordon: Do you not believe it is the duty of a ministry to see that there are proper schedules laid down so there can be some kind of surety to this whole process?

Mr. Laverty: In this case, the scheduling would be done by the hearings board itself. It would be administered by the Rent Review Hearings Board. Apart from that, the question of whether a quasi-judicial body should be subjected to a series of time frames is one I would like to consider and then respond to you at some other time.

Mr. Gordon: It makes me wonder about a quasi-judicial body and whether it is proper to have no fixed clause in this bill indicating that there should be an informal meeting as the first meeting of the rent review administrator and the landlord and tenant. When you talk like that, I begin to wonder about that whole process.

Mr. Reville: It sounds like plea bargaining.

Mr. Laverty: I do not think it has anything to do with plea bargaining.

Mr. Reville: I am sorry. I withdraw that. It has nothing to do with plea bargaining. I was trying to think of an analogy that we all understood.

Mr.-Laverty: I am quite aware--

Mr. Gordon: Can you give us an analogy just to get this fixed?

Mr. Laverty: I am quite aware that you wish us to give fuller consideration to this matter and a fuller response. At this time, however, it is not a matter we have had the opportunity to reflect on properly. We are simply asking leave to respond to you subsequently.

Mr. Gordon: I certainly bow to your wanting to reflect on this.

Ms. E. J. Smith: I could make a formal request that the matter be stood down. That might resolve it.

Mr. Gordon: I welcome that, but I wondered whether there was in your mind any kind of analogous situation you could point to.

Mr. Laverty: The question of whether it would be appropriate is in the abstract right now. That question has raised itself in my mind but not to the extent that I have been able to consider it in the light of such precedents. We will be pleased to respond with a considered opinion on it.

Mr. Reville: I would be delighted to hear a more mature response from the ministry. I also want to point out--

Mr. Cordiano: That is an interesting choice of words.

Mr.-Reville: No, "on more mature reflection" is a fairly common idiom, so a more mature response seems to follow therefrom.

Ms.-E.-J.-Smith: We will take your word for it.

Mr. Reville: Seeing we are all speaking in legislative language these days and dreaming in and singing in the shower in it, I do want to point out that at this late remove, it is encouraging to hear the ministry officials indicating that what we are doing is a dynamic process and that a fuller response are useful. That is one of the first indications we have had of that view since August 19, 1986. I am delighted that it has come to pass. I imagine Mr. Gordon would like to make a speech on that subject too.

17:10

Mr. Gordon: I would like to reflect on Mr. Reville's views.

Ms.-E.-J.-Smith: Have your views mature a bit over night.

Mr. Gordon: We welcome a comment from the minister on this subject.

Hon. Mr. Curling: Mr. Reville has put the point very well in saying that maybe we get too caught up in the legal definitions or expressions and lose exactly what it is all about. Basically, I find that if we have three hearing officers or members of the board trying to get together, it is much easier to get one than if you have three. It is a practical question. To me, to say that we are going to organize three people to get together to hear a case is more difficult than to get one.

You say: "We cannot see the difficulty. Why should there be a difficulty there?" We can get into the legal terms of how we express this and what we do, and then we get caught up in how we put it into law. By the time it is placed in the bill, we lose exactly what we are looking for, what we intend to do.

Mr. Gordon: On that point, I have to comment. Do I understand the minister to be saying it is harder to get three into one or one into three?

Mr. Reville: This sounds theological.

Hon. Mr. Curling: All I am getting at is that even just to convene some of these meetings on time, to get together, sometimes we wait a long time because we have more people on the committee. I am just saying if we have one board member hearing a case, it is easier to get that meeting together.

Mr. Chairman: Is it agreed by committee members that section 101, as amended, in its entirety shall be stood down?

Agreed to.

On section 102:

Mr. Chairman: Does subsection 102(1) carry?

Mr. Cordiano: Just a point: Is section 99 stood down?

Mr. Chairman: Section 99 was stood down.

Mr. Cordiano: Okay, thank you.

Mr. Chairman: We are now on section 102.

Mr. Gordon: Is there some reason why you wanted to know that?

Mr. Cordiano: We are just keeping track.

Ms. E. J. Smith: I had not marked my little book here. I had not even read the section.

Mr. Chairman: We should be thankful that members are trying to keep track.

Ms. E. J. Smith: No devious plots.

Mr. Cordiano: Nothing to worry about.

Mr. Chairman: Any comments on subsection 102(1)? Any comments on subsection 102(2)? Agreed? So subsections 102(1) and (2) carry? Carried.

On section 103:

Mr. Gordon: I would like legal counsel to run through for us the statutory powers procedure approach, if she would not mind.

Ms. Stratford: Are we talking now about section 102 and what that means?

Mr. Gordon: Yes.

Ms. Stratford: The Statutory Powers Procedure Act is a statute that provides a procedural code for certain decision-making functions. This code really just embodies in statute form the rules of natural justice and the common law rules that have evolved over time, which must be observed in the conduct of a hearing.

The purpose of the Statutory Powers Procedure Act was to have all of these rules in one place so that people would know where to look to determine whether the hearing was being conducted properly. This section merely says that this act will apply. Even without the section, the act would apply because a hearing is required by the statute, and therefore that act would have application.

Some of the procedures that the act covers would be specific requirements about giving notice of the hearing to the affected parties and particulars of what should go in that notice. There are provisions for closing a hearing in the appropriate case as opposed to having a public hearing. There are provisions for the calling of witnesses, the cross-examination of witnesses, the right to counsel and the summoning of witnesses. There are provisions for citing persons for contempt and for taking action where people fail to attend and just for generally maintaining order at the hearing.

Mr. Gordon: You say that what the Statutory Powers Procedure Act really does is to bring together all those things that we see as coming out of common law.

Ms. Stratford: That is correct, yes.

Mr. Gordon: This would ensure that natural justice is always there for the people who are involved in this particular process at the appeal stage.

Ms. Stratford: Yes.

Mr. Gordon: What happens at the first stage, which is where a landlord or a tenant goes forward for the first time to the rent review administrator? Does this law then protect the landlord and/or the tenant?

Ms. Stratford: At the first stage of the determination in the administrative review phase, the bill provides that a hearing will not be held. The process is just one of administrative review. Therefore, the rules of natural justice as evolved over the common law do not apply. However, rules of procedural fairness, which have also been established by the common law, would apply, and those rules provide that everyone who is a party to the application must have an opportunity for input into the process. However, a formal hearing whereby you give out a formal notice to everyone and convene an official hearing for people to come and attend at once is not required by the bill. That is the difference between the administrative review phase and the later appeal phase at the Rent Review Hearings Board.

Mr. Gordon: I understand the particular point you are raising between the two, but I was just wondering whether the Statutory Powers Procedure Act gives protection at that particular point to either the landlord or the tenant. What you are saying to me is that it does according to the procedures part of that act. Is that correct?

Ms. Stratford: The Statutory Powers Procedure Act per se does not apply to the administrative review level. The statute has, in fact, clearly said that it would not apply to that stage. However, the common law rules of

fairness would apply and would ensure that everyone had an opportunity for input.

Mr. Gordon: What are the common law rules of fairness, if I might ask?

Ms. Stratford: As I have just stated, you can really sum them up by saying that people have the right to make input into the process. The applicant has a right to make submissions, to make his or her case. The respondent to the application has an opportunity to know what the applicant's case is and to make representations in reply to that. We have provided for that in the bill with various sections that set time limits for the making of representations and give rights to parties to do that.

Mr. Gordon: Sure. So you would say that the element of fairness that you are talking about under common law is already built into this bill; it is already there.

Ms. Stratford: We believe it is, yes.

Mr. Gordon: You do not see an instance, then, where somebody would use that particular legal approach to try to further his goals and say that at that first stage he had not been given that?

Ms. Stratford: I would never suggest that a lawyer would not try to make a legal argument that was to his client's advantage. It is my opinion that the process we have set up is certainly one that would stand up in court. I cannot suggest that all lawyers would agree with me.

Mr. Chairman: Mr. Reville?

Mr. Reville: I am in a retrospective mood and I cannot respond to you at this time.

Mr. Bernier: Section 103 says, "Subject to the provisions of the Statutory Powers Procedure Act, and except as otherwise provided for by this act, the board may determine its own procedure for the conduct of hearings." Can I get some explanation? It seems to be contradictory there. It is subject to the Statutory Powers Procedure Act, and then it says that except as otherwise provided in this act, they may set their own rules of the game.

17:20

Mr. Chairman: Maybe Ms. Stratford can answer it. It seems to me they are saying that they can set their own rules as long as they do not flout any of the requirements of the Statutory Powers Procedure Act.

Ms. Stratford: Yes, that is correct. The board is given the power to set its own procedure, provided that it does not do something contrary to the Statutory Powers Procedure Act or contrary to a procedure that is set out in this act that it is otherwise required to follow.

Mr. Reville: Back into the present, it is my understanding that section 82 of the Residential Tenancies Act provides that the Residential Tenancy Commission makes available to the public notice of procedure and has the power to issue additional practice directions. Is that correct, or is my informant misleading me?

Ms. Stratford: The Residential Tenancy Commission, I believe, does interpret section 82 as its power to make policy guidelines and procedural manuals. Section 82 goes on to state that where it has done that, those items are to be made available for examination by the public.

Mr. Reville: Is that a good thing?

Ms. E. J. Smith: We have to let that thought mature overnight. We will let you know in the morning.

Mr. Reville: Is that something we should have in this bill? It seems to me that we are allowing the board to determine its own procedure. If we do that, would not natural justice indicate that it should make that procedure known and, from time to time, as required, update the public with respect to that procedure. Mr. Dickie would be very proud of me for raising these issues at this moment.

Mr. Laverty: Do you want to respond to that?

Mr. Peters: First of all, I would like to thank my colleague, Mr. Laverty.

I think it is certainly a matter of openness. I could not imagine a situation where the form of transacting business was not known to the people involved in that business, if that is basically your question, Mr. Reville.

Mr. Reville: You could not imagine it and I could not imagine it, but in practice that happens sometimes.

Mr. Peters: I guess the issue has not been addressed in the confines of Bill 51. It is another issue whether it should or should not.

Ms. Stratford: I think the obligation would be there under the law, again as a matter of fairness, to advise persons of procedures. The freedom of information act will probably address this area as well.

Mr. Reville: In view of that, the government would have no objection to making that specific in the act?

Mr. Laverty: I do not think we have any objection to anything that would allow the guidelines and procedures to be made known to the public. After all, the guidelines and procedures are the rules that allow the public to know how they will be treated, and certainly it is an element of eminent fairness to allow them to know what those rules are.

Mr. Reville: I am overcome by all the fairness that is being expressed. Perhaps I will now give notice that I will be making an amendment to give effect to those sentiments. I understand that it will not meet with unalterable opposition on the part of the government when that amendment comes forward?

Ms. E. J. Smith: We are very co-operative.

Hon. Mr. Curling: If it is fairness, we are ready.

Mr. Reville: That is all it would be: a little fairness amendment.

Mr. Chairman: I detect a sense in the committee that we want this section stood down.

Mr. Reville: But I will make just a little amendment in eminent fairness.

Mr. Chairman: All right. Section 103 is stood down.

On section 104:

Mr. Chairman: There are no proposed amendments to section 104. Any comments?

Mr. Gordon: I agree with the section.

Mr. Chairman: Any other comments? Are subsections 104(1) and (2) carried?

Section 104 agreed to.

On section 105:

Mr. Chairman: There are no proposed amendments. Any comments?

Mr. Gordon: Could I just take a minute to read it over again? Okay. I agree.

Mr. Chairman: Are subsections 105(1) and (2) carried?

Section 105 agreed to.

On sections 106 to 108:

Mr. Chairman: No one has proposed amendments to these sections. Carried?

Sections 106 to 108, inclusive, agreed to.

On section 109:

Mr. Chairman: Ms. E. J. Smith moves that section 109 of the bill be struck out and the following substituted therefor:

"Where, within one year of the date of an order of the board, the member, or panel of members, of the board who made the order is of the opinion that a serious error has been made, the member or panel of members may, on the member's or panel's own motion, rehear any appeal, and may affirm, rescind, amend or replace the order."

Any comments on section 109, as amended?

Mr. Gordon: I have no comments.

Mr. Reville: Agreed.

Mr. Chairman: Shall section 109, as amended, carry?

Section 109, as amended, agreed to.

On section 110:

Mr. Chairman: No amendments proposed. Shall section 110 carry?

Section 110 agreed to.

On section 111:

Mr. Chairman: Ms. E. J. Smith moves that section 111 of the bill be struck out and the following substituted therefor:

"Where a member of a panel of board members that is assigned to hear an appeal ceases for any reason to be a member of the board,

"(a) before the board has made an order in respect of the appeal, the remaining two members of the panel may complete the hearing and make the order of the board; or

"(b) after the board has made an order in respect of the appeal, the remaining two members of the panel may, in the circumstances set out in section 109, decide to rehear the appeal and those two members, together with a third member appointed by the chairman may, after holding the rehearing, affirm, rescind, amend or replace the order,

"but if the two members do not agree,

"(c) on the order to be made in the case mentioned in clause (a), the appeal shall be reheard before a new panel of board members; or

"(d) on whether to rehear the appeal in the case mentioned in clause (b), a rehearing shall not be held."

You have heard the proposed amendment to section 111. Any comments? Section 111, (a) through (d), carried?

Section 111, as amended, agreed to.

On section 112:

Mr. Gordon: I would like that stood down, please.

Mr. Chairman: Without comment?

Mr. Gordon: Yes. Just stand it down.

Mr. Chairman: All right. Section 112 is stood down.

On section 113:

Ms. E. J. Smith: Section 113a--

Mr. Reville: Whoa. Section 113 does not have an amendment.

Ms. E. J. Smith: It is section 113a which actually is into another part.

Mr. Chairman: We will back up a bit. Section 113 has no amendment. Shall it stand?

Mr. Reville: No. I want to ask a question. Under the current rent review arrangements, does an appeal stay in order?

Mr. Laverty: Yes.

Ms. Stratford: Yes, it does.

Mr. Reville: Stand it down, please.

Mr. Chairman: Section 113 is stood down.

On section 113a:

Mr. Chairman: Ms. E. J. Smith moves that the bill be amended by adding thereto the following:

"Part VII-A--Licensing of Residential Tenancy Consultants:

"113a(1) The minister may grant upon payment of the prescribed fee a licence to every person whom the minister, in accordance with the prescribed procedures and criteria, considers qualified to act as a residential tenancy consultant and in accordance with the prescribed procedures may refuse, suspend or revoke any such licence.

"(2) No person, for a fee, shall represent or appear as agent for a landlord or a tenant in any proceedings under this act unless the person,

"(a) is licensed under this part as a residential tenancy consultant; or

"(b) is exempted by the regulations from the requirement to be licensed under this part.

"(3) Any agreement that provides for the payment of a fee to a person other than one who is licensed or exempt as mentioned in subsection (2), for representing or appearing as an agent for a landlord or a tenant in any proceedings under this act is void."

Are there any comments on section 113a?

Mr. Reville: I have some concerns about that gentleman we met in Windsor. Was it Windsor?

Ms. E. J. Smith: London.

Mr. Reville: I recall it was southwestern Ontario, in any event.

Ms. E. J. Smith: It was London.

Mr. Chairman: Ms. Smith remembers.

Ms. E. J. Smith: I remember it well.

Mr. Reville: I had a very enjoyable time in London, Mr. Chairman.

Mr. Chairman: Yes, but we will not talk about that. We are talking about the bill. Are there any comments on section 113a?

Mr. Reville: I do not have any comments on this section.

Mr. Chairman: Shall section 113a carry? Carried.

Section 113a agreed to.

On section 114:

Mr. Chairman: Ms. E. J. Smith moves that section 114 of the bill be amended by adding thereto the following paragraph:

"13a. prescribing, for the purposes of subsection 54(1), information recorded in the rent registry that shall be furnished to any person on request."

I notice under section 114 on page 56--

Ms. E. J. Smith: There is another one.

Mr. Chairman: There is another one, but it is not in the summary.

Ms. E. J. Smith moves that paragraph 31 of section 114 of the bill be struck out and the following substituted therefor:

"31. prescribing persons or classes of persons that are exempt from the requirement to be licensed under part VII-A;

"31a. prescribing, for the purposes for subsection 113a(1), criteria for licensing a person as a residential tenancy consultant;

"31b. prescribing for the purposes of subsection 113a(1), fees for licences under part VII-A;

"31c. prescribing, for the purposes of subsection 113a(1), procedures to be followed where a licence is proposed to be refused, suspended or revoked."

Are there any comments on section 114?

Ms. E. J. Smith: I would like this section stood down.

Mr. Chairman: All right. Are there any comments on section 114?

Mr. Gordon: Yes, after Mr. Reville.

Mr. Reville: I am sorry, I did not hear what Mr. Gordon said.

Mr. Gordon: I said after you.

Mr. Reville: Thank you. In respect to section 114, which describes several bookshelves of regulations that will be made, encouraged by the same spirit that attended our discussion of section 103, I want to suggest to the government and anyone else who cares to listen that it would be helpful if the forms and materials that will be made available through rent review offices in different regions of the province are sensitive to the demography of each of those regions.

A determination could then be made of the major languages spoken in each region, to ensure that both landlords and tenants can understand in their own

language the forms and materials that will be so important in determining what happens in terms of rent review. It would strike a very important blow for multiculturalism in Ontario, particularly with respect to a piece of legislation so complex, if stuff were available (1) in everyday language and (2) in the mother-tongue everyday language. I would like to hear some response from the ministry in that regard.

Hon. Mr. Curling: I will start, and maybe the staff can follow up afterward. I think it is an excellent idea. We are talking about a bill that affects millions of people with different languages and cultures. We should be sensitive to that, because it is difficult for one to present one's case if one's mother tongue is not English or French. I think we should look that way. It is an excellent idea, Mr. Reville. I will consult with staff accordingly.

Mr. Reville: If I may just follow up on that, I am delighted with your answer, Minister. The city of Toronto and I am sure other municipalities are now routinely providing services in several major languages. Italian, Greek, Spanish, Chinese and Portuguese are the ones that come immediately to mind. I know it is a great deal of work, but the return on that work is very large as well. It is something I commend to the government, and we might want to indicate right in the bill that is our intention. I am sure it is an intention that no one would disagree with.

Mr. Gordon: I stepped out of the room for a moment, and the minister did make some kind of statement about regulations. I wonder if he would repeat the statement. I would like to comment on it.

Hon. Mr. Curling: I was prepared when you returned to say what I said before. On checking with staff, the regulations are not ready. I thought I would give you an update on it. They are not ready.

Mr. Gordon: I take it as a given that the regulations are not ready. I do not expect the regulations to be ready even when the bill is passed. I expect that once the bill is passed, there will be regulations made dealing with this bill, this year, next year and for years after.

What some of us on this committee are asking for is that we have the opportunity of perusing some of the regulations that are directed to certain sections of this bill. I know because it is common knowledge that you cannot have a Rent Review Advisory Committee made up of people who having sworn--or did they swear the same kind of oath a civil servant swears, that they will not, under any circumstances, divulge the business of the ministry, the minister or the government?

17:40

Mr. Reville: I imagine they swear a few oaths every now and then.

Hon. Mr. Curling: I do not know whether they--

Mr. Gordon: Did you swear them to any oath?

Hon. Mr. Curling: Not I personally.

Mr. Gordon: It is nice to know they were not breaking their oath to the minister. I have been told that well over 75 per cent of these regulations are ready. When you come here and tell us that your people tell you that the regulations are not ready yet, that is not the point we are raising. We know

the regulations are not ready yet, but we want to see some of these regulations because this is such a complex bill. As the loyal opposition, we are charged with making bills better, with improving things for the people of this province. I think we have a right to see those regulations. You can say that is breaking new ground. Times, people and ideas change. We even have governments that talk about being open.

Mr. Epp: Governments change too.

Mr. Gordon: Just open the windows and doors. This bill is going to cost the people of this province a lot of money. We have a right to see exactly where that money is going to go. I think we will get a pretty good idea when we start to see some of the regulations. Minister, we would like to see this bill move along. We would like to see a good bill that is going to be a credit to this Legislature. We are asking this of you again. We want to see some of those regulations. Why do you not go back and have a talk with some of your civil servants? It is only natural. Being responsible for certain bills a number of years ago, I recall quite distinctly that it was the civil servants more than the politicians who said: "Oh, no. Do not let them see the regulations. This could cause a problem." We want to see some of these regulations. You are the politician. Let us have some basic openness around here.

Hon. Mr. Curling: I am glad to hear that the official opposition critic has talked about co-operation. I appreciate the type of co-operation that has been given on the bill during the past two sittings.

Mr. Gordon: Only two?

Hon. Mr. Curling: Since we have been doing clause by clause. I am looking forward to the same type of co-operation. I do not have as much history behind me as the honourable member has.

Mr. Reville: They only had 42 years.

Mr. Gordon: I am holding up my sign.

Mr. Reville: I have 43 myself.

Hon. Mr. Curling: He indicated that the civil servants are used to doing that.

Interjections.

Mr. Gordon: Forty-two.

Mr. Reville: We will give that a 9.9 per cent.

Mr. Gordon: Okay. Now that we have indicated how many years--

Hon. Mr. Curling: As we go along in the bill, many of the clauses are being stood down and what have you. We know regulations also may be affected. It is not a matter that the civil servants are telling me, "Do not give it to them." We work very closely. They are quite competent people. They are the same very competent people who were there prior to our becoming the government. I find them extremely efficient. We have found such talent there and we have a very good bill before us. Regulations--you can correct me, Mr. Chairman. You also have a tremendous knowledge of proceedings and what is to be done.

Mr. Chairman: Thank you.

Hon. Mr. Curling: We would like to present those regulations when they are complete and you can make complete sense of it all. You gather that 75 per cent or 70 per cent of them are completed. When they are ready, I will present them.

Mr. Reville: In the Ontario Gazette?

Mr. Gordon: That is not a satisfactory answer. You are really saying that you are not going to present us with the regulations. As I pointed out to you, regulations are going to be made about this bill not only while it is being processed through the House but also for years after. We are asking you to give the legislators of this Legislature, the official opposition and the third party, the opportunity to see some of the guts of this bill. That is only fair. I expect you are going to go away like Dr. Laverty there and reflect on this.

Mr. Chairman: Can we move on to the next person?

Mr. Gordon: Yes.

Ms. E. J. Smith: Referring back to Mr. Reville's concerns about the difficulties of people with language problems, which are very much shared, I think it can honestly be said that these difficulties can be in almost any bill and that the more seriously they are affected by something, the more serious the concern. I was on a translation and interpretation committee funded by the federal government before I was elected that was looking into these very problems. There are so many languages in this country. We can and must do our best in every language and in every way, but the intention of what we want to do cannot easily be written into a bill. It has to be more the willingness of the whole of our society to help people who have interpretation and translation problems.

One of the most obvious areas is hospitals and health care, where they have such problems. While I recognize this strongly, I do not know whether it can be written into a bill. There has to be a much deeper commitment to people of many different languages and a recognition that they have these problems.

Mr. Chairman: If the ministry is interested in pursuing this, it might look at the way the Workers' Compensation Board deals with this problem. Many of its clients are of different languages and it has tried hard to do this.

Mr. Cordiano: I might ask the minister or ministry staff to comment on whether they would have any difficulties in trying to accommodate those types of needs. Is there any background or effort in the past to do that? Would it present any difficulties to the ministry?

Hon. Mr. Curling: One of the difficulties I see in this is that if we reach out in this sense and there is a concentration of, say, Italians, is it economic enough to address that need? Should there be interpreters? We can look at immigration cases. People are able to come forward with cases and have interpreters to present their cases. I presume it is not an easy answer to say yes or no, that we will or will not do it. Of course we will look into it and see how service can be offered to improve the condition of tenants so they can present their cases, or it might be the landlord who is on the other side. I

am not skating around it. I am saying it is something one has to look at. I do not see putting it in a bill. It is something that one has to look at closely.

Ms. E.-J. Smith: It would often be part of the education process. Many people who would have a language difficulty would also have a difficulty with the bill. I am thinking, for instance, of the many oriental languages that we have now, people from Vietnam and so forth. This bill will be as difficult for them as the language.

Hon. Mr. Curling: While we want the bill to do everything, one has to look at the fact that 25 per cent of our population in Ontario is culturally illiterate. That are a lot of cases we should address and look at. There are even those understanding English who cannot understand this. There are those who cannot even read or write and would have two, three or five more times difficulty.

Mr. Reville: Can I respond to these helpful comments?

Mr. Chairman: Yes. You might respond to the 25 per cent number the minister used. I find that startling.

Mr. Reville: I find that startling as well. If it is the case, we have a great deal of work to do. I want to share with the committee that governments are just beginning to be aware that they must deal with people as they find them, in their own languages and in a way that makes sense to the people rather than in a way that is convenient for the government. I believe--these are protestations that are often made--that the makeup of the government should more properly reflect the makeup of our society. Given the importance we all attach to these approaches to providing services to people in and by ways they understand, some acknowledgement in legislative form does point out how serious our intentions are. Whether that is done by way of a preamble--

17:50

Ms. E. J. Smith: Possibly we can re-examine the section on education and see whether we make reference to it.

Mr. Reville: Exactly. Perhaps we should enshrine it in legislation that we will make our best efforts to make all this legislation truly understandable to the people it is designed to serve.

Mr. Cordiano: Ms. Smith makes a good point, that we should look at the section that deals with education. I think it would be appropriate.

Mr. Reville: I recall that section and, unfortunately, I think we have carried that section.

Hon. Mr. Curling: Can I make a quick point? The government is quite sensitive about services. As to putting it in Bill 51 to lead the government in that direction, we have these discussions in cabinet and in caucus when we meet and we are quite sensitive about that. The education process of this bill has identified these issues. I repeat what I said, that 25 per cent of our people are functionally illiterate, not only in Ontario but also in Canada.

Mr. Reville: In that case, maybe we should agree that section 11 be reopened where it discusses the minister's responsibility to provide information and advice. The government can take into consideration what has

been discussed today and see whether it would like to make an amendment to clause 11(a) to reflect all our desires to make this bill truly meaningful to people.

Mr. Chairman: It is my understanding that the committee agreed the other day to allow sections to be reopened. Is that correct? You might want to keep that in mind when--

Mr. Reville: It is a suggestion I offer to the government for free.

Mr. Cordiano: It is appropriate to look at that section again if we are talking about making some reference to this.

Mr. Chairman: It would allow all members to reflect on it before we get back to that section when we start over and go through the sections on which there has not been agreement.

Ms. E. J. Smith: We could specify community services more closely because clause 11(a) does mention social and community services.

Mr. Chairman: Let us not try to rewrite it this afternoon.

Is it agreed that you want section 114 stood down? That was agreed, was it not?

Mr. Epp: It was requested and I think was agreed to.

Ms. E. J. Smith: Yes.

Mr. Chairman: Section 114 is stood down.

Section 115 agreed to.

On section 116:

Mr. Chairman: There are no proposed amendments to section 116. Shall it carry?

Mr. Reville: No. Let us not carry that section.

Mr. Chairman: Section 116 is stood down. Are there any comments? It is just stood down.

On section 117:

Mr. Chairman: Ms. E. J. Smith moves that subsection 117(2) of the bill be amended by striking out "mentioned" in the first line and inserting in lieu thereof "prohibited."

Motion agreed to.

Section 117, as amended, agreed to.

On section 118:

Mr. Chairman: Ms. E. J. Smith moves that subsection 118(1) of the bill be amended by adding thereto the following clause:

"(h) charges or takes a fee that is in contravention of subsection 117(1)."

Are there any comments on section 118?

Mr. Reville: I would like it stood down.

Mr. Chairman: Section 118 is stood down.

Sections 119 to 122, inclusive, agreed to.

On section 123:

Mr. Reville: I have some technical concerns about section 123 and would like it stood down.

Mr. Chairman: Section 123 is stood down.

On section 124:

Mr. Reville: Stand it down.

Mr. Chairman: It is stood down.

Sections 125 and 126 agreed to.

Mr. Chairman: This means that we have--

Mr. Reville: Are you going to talk about schedules A and B?

Mr. Chairman: Schedule A refers to subsection 68(1) which was stood down. Schedule B refers to section 72 which was also stood down. Shall we stand down schedules A and B as well?

Mr. Reville: By all means.

Mr. Chairman: That is tight.

That means that we have gone through the bill once and discovered the areas on which there is general agreement. This leaves only the interesting part to do, namely, going through the bill and debating the sections on which there may be some disagreement.

Hon. Mr. Curling: The tough part is over; now the easy part.

Mr. Reville: It may be of interest to the committee to know that we have carried more than half the bill in two days.

Mr. Chairman: That is of interest.

Ms. E. J. Smith: I would like to think we could conclude and carry the rest of the bill in two more days, but I do not think we will be so lucky.

Mr. Reville: Ms. Smith should know that it is possible through the speedy acceptance of my amendments. We could carry it in 20 minutes.

Mr. Epp: Shall we stay tonight to do it?

Mr. Chairman: Tomorrow afternoon, we will begin again with section 1 and go through the bill.

The committee adjourned at 5:58 p.m.

ERRATUM

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Should read:</u>
R-57	R-20	43	Instead of helping the people who need help and concentrating help on those who need help, spreading it over all pre-1976 buildings and arguing that there will be an affordability problem for all those tenants living in all pre-1976 buildings is counterproductive.

STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
THURSDAY, NOVEMBER 6, 1986



200

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsvie L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, E. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Substitution:

Knight, D. S. (Halton-Burlington L) for Ms. Caplan

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Fader, J. A., Deputy Senior Legislative Counsel
Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)
Laverty, P., Director, Rent Review Policy Branch, Rent Review Division
Stratford, L. A., Senior Solicitor, Rent Review Division
Peters, F. H., Executive Director, Rent Review Division

From the Rent Review Advisory Committee:

Andrade, J.
Bever, F.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Thursday, November 6, 1986

The committee met at 4:24 p.m. in room 151.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The standing committee on resources development will come to order.

When we adjourned yesterday afternoon, we had gone through the bill and passed the sections on which there was agreement. Today we will proceed with clause-by-clause debate of the bill, starting from the beginning. By three-party agreement, we shall adjourn around five o'clock today. We will not sit Wednesday and Thursday of next week. Next week there will be no sitting of the committee.

Mr. Cordiano: That is the first I have heard of this.

Mr. Chairman: Mr. Epp is aware of it. Are there any questions or comments before we begin?

Mr. Reville: Yes, I would like to make a comment.

The exercise we have been through at committee since we began the hearings on August 19 has been a very difficult but a very fascinating one. We have received a great deal of information, not only from members of the public but also from Ministry of Housing officials, the Minister of Housing (Mr. Curling) and from other members of the committee.

On Monday and Wednesday we managed to narrow the issues considerably. In fact, I think we have approved more than half of the bill. However, there remain a significant number of very problematic and important issues. I know the representatives of the committee, and the three parties, all have a particular approach to these issues. When we finish our work we want a piece of legislation that will work as effectively as possible and that will be in balance so the various pieces of the bill will operate with each other in the way that was intended when the bill was presented by the government, even though the philosophical approaches may not always have been the same for all of us.

This is why I think it is useful, now that we have narrowed the issues--and I think we can narrow them a bit more today--that we do take some time to reflect on what we have left and on the types of amendments that we all see as appropriate to end up with the type of bill that will do what we hope it will do in terms of protecting landlords and tenants in the province.

This is the speech I wanted to make. I look forward to the next few days so that I can get a grasp on the remainder of the bill and make the type of amendments, and to hear debate on the other amendments, that I think will be moved and make appropriate decisions.

Mr. Epp: I very much appreciate Mr. Reville's comments. I can identify with them. I know he and the Conservative critic have worked very hard with their colleagues in trying to simplify a complex piece of legislation.

We also want to get out the best piece of legislation for all the landlords, the tenants and the general public. I appreciate, and my colleagues appreciate, the co-operation we have received from them and we look forward to completing this piece of legislation as soon as possible.

I appreciate your co-operation, Mr. Chairman, in trying to give us a little more time to work out these complex issues. Therefore, I think our not sitting next week is going to facilitate completing what all of us understand to be a very complex bill. I want to thank them for their co-operation and I look forward to completing this as soon as possible.

Mr. Cordiano: Perhaps it is important to note at this point that there are a couple of outstanding issues that I believe Mr. Gordon, if he is listening, was rather interested in some time ago. He brought these two issues up in the committee: those referring to the Rent Review Hearings Board and the flow chart included therein. We were supposed to hear from the ministry officials with regard to this. I do not know whether we will have time to do it here today or whether this was the plan for today. Indeed, we should be looking at those two items either today or at some other time in the near future.

I do not know, Mr. Gordon, whether you are still interested in that information, but we do have it. I understand from the ministry officials that it is available.

Hon. Mr. Curling: Yes, it is.

Mr. Gordon: To answer the member on the opposite side, I certainly am very interested in those two items. I think they play a very important part in delineating, and helping us to better understand, the bill and in allowing us to see that our amendments are the type of amendments that will make it a better bill.

Mr. Chairman: Thank you, Mr. Gordon. Let us proceed.

Mr. Reville: Before we do, I wonder whether I could table with the committee, for circulation by the clerk, a couple of documents that are available in several languages at the city of Toronto, just to give the committee members an idea of how you can provide fairly complex information in several languages. It might be interesting for people to look at.

16:30

Mr. Chairman: Thank you. We will also be distributing to the committee the status of the sections of the bill that we have gone through already, and Todd will distribute that. It might help us as we work our way through.

On section 1:

Mr. Chairman: In section 1 we had already passed all of the definitions down to the bottom of the first page, "maximum rent," which was deferred. Is it the wish of the committee to deal with that now?

Mr. Reville: There are a couple of those sections that I have now reviewed in more detail and no longer feel that they need to be held down. I would be happy to mention those, but I think, in keeping with the type of consensus we have been trying to arrive at, that if anybody else wants them to be continued to be stood down, then that would be fine. For instance, I had held down the definition of "maximum rent." I am content that it carry, if that meets with the approval of the rest of the committee.

Mr. Chairman: Any comment on maximum rent? Mr. Gordon?

Mr. Gordon: No, I agree.

Mr. Chairman: Okay. Shall the definition of "maximum rent" carry? Carried.

Mr. Chairman: All the other definitions are passed down to "rental unit," the amended rental unit section on page 3. Is there any comment on "rental unit"?

Mr. Reville: I have no comments on "rental unit."

Mr. Chairman: Any other comments on "rental unit"?

Mr. Gordon: No, I agree with that. When would be the appropriate time to introduce an amendment?

Mr. Chairman: Do not let us go by the section. Is it an addition?

Mr. Gordon: It is in this section.

Mr. Chairman: In this section--

Mr. Reville: If it has been held down, though, it can stay held down. We should clear the decks first on those matters that are--

Mr. Chairman: But before we move on to the next section, we will deal with that.

Mr. Gordon: Thank you.

Mr. Chairman: Shall the definition of "rental unit" carry? Carried.

The next definition is that of "residential complex." Are there comments on that?

Mr. Reville: I would like that to be continued to be stood down. I think I will move an amendment to that section.

Mr. Chairman: Do we have agreement that "residential complex" will then be stood down?

The next section is "'services and facilities' includes," and then we have a long list of what "services and facilities" does, indeed, include. I think this is where Mr. Gordon had an amendment proposed. Why do we not deal with that now?

Mr. Gordon: I would like to see this continue to be stood down.

Mr. Chairman: Okay.

Mr. Reville: I wonder whether we would back up a minute and I could ask a question of staff about "residential complex" and the definition thereof. It will have an impact on my view of the necessity of making an amendment.

What the definition appears to do is to try to cover those circumstances that are covered by the bill. Some of them are quite different, one from another. I am particularly concerned about those rental units that comprise a significant amount of the rental stock but are, in fact, in buildings that are under the Condominium Act.

There are a large number of condominiums whose units are rented. My understanding is that if a unit is rented, then it is covered by this act. However, that does not appear to be specific in this bill, and it is an issue with which I have had some personal connection because I have a number of complexes in my riding that are condominiums. The issue usually comes up in connection with Bill 11. In fact, people are not quite sure what their status is, and sometimes they do not even realize they live in a condominium, because they rented their units from what appeared to be a rental agent or a superintendent. Then along comes the owner, who decides to occupy his or her unit.

I would like it to be clear in the bill that while they are rented, those units are indeed under this legislation. I wonder whether you have any comments or any comfort to give me. Perhaps Ms. Stratford, the senior counsel, would like to approach the bench.

Mr. Laverty: Certainly in terms of the policy intent, we fully intend to cover rented condominium units. Legal counsel will certainly speak to exactly how they are covered under the current drafting.

Ms. Stratford: It is our view that the definition of "rental unit" obviously covers a condominium unit because it is living accommodation used as rented residential premises. The definition of "residential complex" would be a building with rental units in it, which could mean a building with condominium units.

Mr. Reville: I get it. Would there be an objection in principle--I do not want to commit the government to anything--to entertaining more specificity in this regard in the appropriate way?

Mr. Laverty: Certainly we have indicated that it is our policy intent to have rented units in condominium buildings covered by the act. If there were a wording that would add greater clarity without raising at the same time other legal issues that might make us worse off, I do not think that in principle we would have any particular problem with making more clear what our policy intent happens to be.

Mr. Reville: This is precisely why it is useful to have this small delay. I would like to try to work up an amendment, submit it for everyone's consideration and make sure the lawyers agree that it does what I hope it will do and not create additional problems with the definition. I would still like that stood down, but this certainly helps me a great deal.

Mr. Chairman: All right. We will leave "residential complex" stood down and we will do the same with "services and facilities," except that Mr.

Gordon has an amendment to it. Why do we not try it on for size and see whether the committee wants it stood down or will accept it?

Mr. Gordon: I have an amendment with regard to a definition of "extraordinary operating costs."

Mr. Chairman: This is a new section.

Mr. Gordon: This would be in section 1. It is a definition of what "extraordinary operating costs" means. I would like to have it in the definitions section of this bill. I think it has been circulated to all the members.

Mr. Chairman: It is just being done.

Mr. Gordon: There is a typo in the first line of the definition. The word "operation" should say "operating." I am bringing this forward because it is something I believe the Rent Review Advisory Committee has spent a considerable amount of time discussing.

Mr. Chairman: Mr. Gordon moves that section 1 of the bill be amended by adding thereto the following definition:

"'extraordinary operating costs' means a change in one component of the building operating cost index or a change that creates a variance of 50 per cent of the building operating cost index component or a change equal to one per cent of revenue."

Mr. Gordon: I believe this is in conformity with the RRAC agreement. It is something they talked of, and I think it is something that helps to clarify this whole business of what "extraordinary operating costs" is all about. I saw that the definition was left out, and I felt it would be helpful if it was in the bill.

16:40

Mr. Chairman: Are there any comments on Mr. Gordon's amendment?

Mr. Epp: I have seen the amendment, and I think it is constructive. We are prepared to support it.

Hon. Mr. Curling: I think the thrust of the amendment is good. This has been discussed already. I do not think it was in the legislation but it was to be placed in the regulations somehow. I would like to ask the staff to comment on it because when it comes to legal terms, I am lost.

Mr. Chairman: Who is grasping the nettle?

Interjection: Mr. Laverty.

Mr. Chairman: Mr. Laverty; that is good.

Mr. Laverty: It reflects the Rent Review Advisory Committees agreement in recommendation 8 on page 3. We had originally planned to cover it in regulations, but it does provide greater certainty to all to have it in the legislation itself. For that reason, I hardly think RRAC would have any fundamental problem with it. The only technical issue I raise is that it seems to me there are three words that are not strictly necessary in terms of the

flow of the words. The three words are "or a change" at the end of the second line and the beginning of the third line. I am not sure whether those three words are necessary.

Mr. Gordon: I agree with that. We can drop them.

Mr. Chairman: It is understood that the words "or a change" will be removed from Mr. Gordon's amendment.

Mr. Reville: I do not know whether Mr. Gordon wants to speak further, but I would like to speak on this matter at some time.

Mr. Gorden: I would like Dr. Laverty to expand on the concept of extraordinary operating costs. It is a complex subject and I want everyone to understand exactly where we are coming from.

Mr. Laverty: In the new legislation, we are changing from an item-by-item review of operating costs to a fixed operating cost allowance. The purpose of this is threefold. First, in terms of simplification, from the point of view of all concerned, it reduces the volume of paper that has to go through the administrative review process. From a tenant perspective, it has the advantage of reducing the amount of stacked costs in a given operating year. From a landlord perspective, it expedites the process. We think one of the major reasons behind the amount of time currently consumed in the current system relates to the need to go through these operating cost items.

However, when we were going through discussions with our advisory committee, we were faced with a situation where a landlord might have an unusually large cost increase in any given year and a fixed operating allowance with no flexibility to it might cause the landlord severe financial difficulties.

We developed the concept of an extraordinary operating cost to take into account cases where there was a truly significant variation from the norm that would be reflected in the building operating cost index. The purpose of the extraordinary operating cost index is as a safety valve to landlords. It opens up similar possibilities on the tenants' side as well. That was the reason we decided to accept RRAC's suggestion and proceed with it originally in regulations, as we indicated today, in putting it into the legislation.

Mr. Reville: I appreciate the intention of the amendment and I am thankful for the explanation of it. This is one of those cases, however, in which the explanation creates a ripple throughout the bill. It would also require Dr. Laverty to pay me a nickel because it would appear three times in the bill.

Mr. Laverty: It is an expensive amendment.

Mr. Reville: This concept is dealt with in clause 72(b) and subsection 82(1). Is that not correct?

Mr. Laverty: Yes, in sections 72 and 82.

Mr. Reville: It also has philosophical connections with schedule B and wherever schedule B operates within the bill. I would find it helpful if we were to stand this down so that we can deal with that package together. It strikes me that a change in one part will affect the other parts.

Mr. Chairman: There has been a request that the services and facilities section of the definition be--

Mr. Reville: It is not services and facilities. This is a new definition called "extraordinary operating costs," which would go on page 1.

Mr. Chairman: I thought you were talking about Mr. Gordon's amendment.

Mr. Reville: Yes, but it would come after "economic loss" in the bill because it starts with "e." I would like it held down. In any event. I will put that on my list.

Mr. Chairman: That is held down.

Mr. Gordon: I am not averse to further study if it is going to mean the bill as a whole is going to benefit from that study, but I am not quite sure about the reason this definition is not suitable at this time. Can Mr. Reville clarify that for me?

Mr. Reville: Yes, of course. It is a lovely definition.

Mr. Gordon: It came from a lovely guy.

Mr. Reville: The reason it is lovely is that it was moved by a lovely guy. What I am not prepared to determine finally today is whether the notion of the change in one component is appropriate, whether the variance of 50 per cent is appropriate, whether one per cent of revenue is appropriate and whether the whole notion of extraordinary operating costs is appropriate. Is that clear now?

Ms. E. J. Smith: I cannot see any problem with standing it down. We have stood down anything anybody wanted to look at. This is another example of that. Although it looks good to me, I will go along with that.

Mr. Reville: If you do not mind, what I want to do is to review the input we have had in respect of this item in the context of this very clear definition. I agree it is helpful to have the clear definition, but I want to see how it is going to operate in connection with the parts of the bill that make it work. That is the idea behind my reticence.

Mr. Gordon: Given the clarity of the request, I will not disagree with its being stood down at this time.

Mr. Chairman: What about your proposed addition?

16:50

Mr. Gordon: I would like that to be stood down for now, as we work for further clarification.

Mr. Chairman: We will stand down that section.

Mr. Gordon: Was that not the one that dealt with retirement residences that you were referring to?

Ms. E. J. Smith: And services and facilities.

Mr. Gordon: We are talking about both residences and services and facilities.

Mr. Reville: That amendment is not tabled, though.

Mr. Chairman: I think the notice was tabled on Monday.

Mr. Gordon: It was tabled on Monday.

Mr. Reville: That was the one where the three definitions were on the same page?

Mr. Gordon: That is right.

Mr. Chairman: Those will be stood down. Is there agreement?

Ms. E.-J.-Smith: Yes.

On section 2:

Mr. Chairman: May we move on? Subsection 2(1) and subsection 2(2) have been agreed to. Subsection 2(3) has been stood down. The amendments that are in the bill were moved by Ms. Smith, but it was stood down. Do you wish to deal with it now or do you want to leave it stood down?

Mr. Reville: I have no objection to proceeding on section 2 in total.

Mr. Chairman: The entire section 2, which would include subsections 3, 3a and 4?

Mr. Reville: Yes.

Mr. Chairman: Are there any comments on that? We stood down subsections 2(3) and 2(3a). My notes show that subsection 2(3a) was not even moved as an amendment.

Ms. E.-J. Smith: We got into a discussion of whether if one was stood down, the whole thing was stood down. That is the way we were going most of the time although there were a couple of exceptions. Once the first one was stood down, it had the effect of standing down the whole section.

Mr. Chairman: However, if you wish to proceed with this section, someone must move subsection 2(3a) because we have not already done it.

Ms. E. J. Smith: I will move it.

Mr. Chairman: Ms. E. J. Smith moves that the bill be amended by add the following subsection:

"(3a) Subsection 3 does not apply to a tenancy agreement that provides for the payment at the commencement of the term of the tenancy of a lump sum as the basic rent for the rental unit for a term of 10 or more years and that includes provision for the payment by the tenant on a periodic basis of additional amounts related to the cost of maintenance of common areas and other miscellaneous expenses associated with the rental unit."

Let us deal first with subsection 2(3), which has already been moved. Shall it carry? Do you wish to debate that further or stand it down?

Motion agreed to.

Mr. Chairman: Is there any debate on section 2(3a)?

Mr. Epp: Pardon me; I think you mean "subsection."

Mr. Chairman: Does subsection 2(3a) carry?.

Motion agreed to.

Section 2, as amended, agreed to.

Mr. Chairman: Section 3 of the bill has already been carried. It binds the crown.

On section 4:

Mr. Chairman: Section 4 was moved but not carried. Is there any further comment on section 4 of the bill?

Mr. Gordon: I ask that it continue to be stood down for now.

Mr. Chairman: Section 4 in its entirety is stood down.

On section 5:

Mr. Chairman: Section 5 is the rent increase section. Subsection 5(1) was moved, but was stood down.

Mr. Reville: I am content for that section to be dealt with now.

Mr. Chairman: Ms. E. J. Smith has moved that subsection 5(1) of the bill be amended by inserting after "rent" in the fifth line "and of the current maximum rent, if it is higher than the current rent."

Motion agreed to.

Section 5 agreed to.

Mr. Chairman: Both sections of section 6 were already carried. Section 7 was stood down. Are there any comments on section 7?

Section 7 agreed to.

Mr. Chairman: Sections 8 to 12, inclusive, were carried. Section 13 was stood down.

On section 13:

Ms. E. J. Smith: What part of section 13? I move that section 13--

Mr. Chairman: I am sorry. That section was moved the other day so the amendment does not need to be moved again.

Mr. Reville: In connection with subsection 13(4), "an order for the

payment of money in excess of \$3,000," I think that should remain stood down.

Mr. Gordon: Yes, stand that part down.

Mr. Chairman: Do you wish to deal with the other subsections now or do you wish to stand the whole section down?

Mr. Gordon: I am ready to deal with them.

Mr. Chairman: Shall subsections 13(1), 13(2) and 13(3)--

Mr. Gordon: Agreed.

Ms. E. J. Smith: No, we asked for subsection 2 to be stood down and we still want it stood down.

Mr. Chairman: Subsection 13(2) is to be stood down. Shall subsection 13(1) carry? Carried. Shall clauses 13(3)(a), 13(3)(b), 13(3)(c) and 13(3)(d) carry? Carried. Subsection 13(4) is stood down by agreement. Shall subsection 13(5) carry?

Mr. Reville: Stand it down.

Mr. Chairman: Shall it be stood down?

Mr. Reville: Can you stall for a second so I can catch up on my list here?

Mr. Chairman: Please do not let me rush you. It is better to take our time and get it right.

Mr. Gordon: We like that kind of chairman.

Mr. Reville: All right. I am content to proceed.

On section 14:

Mr. Chairman: Section 13 is stood down. It is my understanding the amendments in section 14 were not moved and will need to be before we proceed.

Mr. Chairman: Ms. Smith moves that sections 14 and 15 of the bill be struck out and the following substituted therefor:

"14. (1) A board to be known as the Residential Rental Standards Board, hereinafter called the standards board, is established, composed of such number of members as the Lieutenant Governor in Council appoints.

"(2) The standards board shall be assisted in the performance of its duties by such officers and employees of the ministry as the minister assigns for the purpose.

"(3) The members of the standards board shall be paid such remuneration and expenses as the Lieutenant Governor from time to time determines."

Ms. E. J. Smith: That is section 14. We have a long section 15. I do not know whether you want to deal with them separately.

Mr. Chairman: Can we deal with section 14 first? Are there any comments on section 14, as amended by Ms. Smith?

Mr. Gordon: Agreed.

Ms. E. J. Smith: Agreed. Then section 15--

Mr. Chairman: I am sorry, Ms. Smith, but I think we had better let Mr. Reville have a chance at this.

Mr. Reville: I am sorry?

Ms. E. J. Smith: Do you agree to section 14?

Mr. Chairman: As amended.

Mr. Reville: I am still not quite sure. I am familiar with the government amendments. Did we overlook moving them on October 30?

Ms. E. J. Smith: Before we got to read them, someone said they wanted the two sections stood down. If you look at the length of section 15, you will see there was no point in reading it twice when it was going to be stood down.

Mr. Reville: Did you not do it at all?

Ms. E. J. Smith: We did not read them. We skipped the whole thing.

Mr. Reville: I have no objection to dealing with section 14 at this time.

Mr. Chairman: Ms. Smith just made the amendment formally, officially and into the record. Section 14 is open for debate. Go ahead, if you wish, Mr. Reville.

Mr. Reville: What has happened in respect of sections 14 and 15, which are the operative sections of the maintenance board, is that they have been recast and section 14 deals with the establishment and the hardware around the board. I think that makes sense, so I am happy to support that section.

Mr. Chairman: Shall subsections 14(1), 14(2) and 14(3) carry?
Carried.

Section 14, as amended, agreed to.

17:00

On section 15:

Mr. Chairman: Ms. Smith, it is an onerous task, but I think the amendment should be read into the record.

Ms. E. J. Smith: I am happy to read it, but before I do so, I would like to submit a potential new section 15, which I will explain to you. There is only one word in it changed, and it is changed largely because of the questions asked by the members of this committee. You can watch for it. Where it was 30 days on appeal--I do not remember who raised it--but we said how come in the present act it is 14 days? It has been extended to 30 days.

Mr. Chairman: Excuse me. It is best that you read the amendment before you speak to it. Why do you not read your amendment?

Ms. E. J. Smith: Okay. I will stop when I hit that, if I may do so.

Mr. Chairman: Yes.

Ms. E. J. Smith: I just wanted you to know it was available here and it is in compliance with your wishes.

"15(1) In this section,

"'municipality' means a city, town, village and township;

"'standards' means the maintenance standards established by the Residential Rental Standards Board.

"(2) The council of every municipality is responsible for the enforcement of the standards in the prescribed manner.

"(3) Where the council of a municipality determines that a residential complex"--

Mr. Chairman: May I interrupt you? There is something wrong here. I do not know what it is. Either you are reading something I do not have or you have jumped into the middle of section 15.

Hon. Mr. Curling: She is doing section 15.

Ms. E. J. Smith: Perhaps I have jumped in.

Mr. Chairman: I am at section 15.

Hon. Mr. Curling: You have section 14.

Ms. E. J. Smith: I do not know where I am. I am sorry. I will start again. I do not know if you can delete from Hansard, but I will start again.

Mr. Reville: Strike that.

Mr. Chairman: Ms. E. J. Smith moves that section 15 of the bill be struck out and the following substituted therefor:

"15(1) The standards board shall,

"(a) recommend to the minister the appropriate minimum maintenance standards that should be made applicable to residential complexes and the rental units located therein and appropriate standards relating to the health and safety of the occupants thereof;

"(b) recommend to the minister the powers and duties that should be conferred or imposed on the standards board respecting the development and enforcement of appropriate maintenance standards for residential complexes and the rental units located therein and for standards relating to the health and safety of the occupants thereof;

"(c) recommend to the minister the form and content of such educational or other programs as will ensure that landlords and tenants are made aware of

the benefits conferred and obligations imposed by the provisions of this act respecting the maintenance standards and their enforcement;

"(d) recommend to the minister methods of providing for recognition of the importance of dialogue between the landlord and the tenants occurring on a meaningful and timely basis regarding proposed capital expenditures in respect of a residential complex while at the same time acknowledging the rights and responsibilities of landlords to manage their buildings;

"(e) receive a copy of any order relating to a residential complex or any rental unit located therein,

"(i) issued by a property standards officer under bylaw passed under section 31 of the Planning Act, 1983 or a predecessor thereof or passed under any special act respecting standards for maintenance and occupancy that is in force in the municipality, or

"(ii) made under the provisions of any general or special act, or any bylaw passed thereunder, respecting standards relating to the health or safety of occupants of buildings or structures, and any notices of appeals from such an order;

"(f) receive and investigate any written complaint from a current tenant of a rental unit respecting the standard of maintenance that prevails in respect of the rental unit or residential complex in which the rental unit is located, where minimum maintenance standards adopted by the standards board under the authority of subsection 15a(1) are in force in the area in which the residential complex is situate.

"(2) Where the standards board receives a copy of an order referred to in clause 1(e), the standards board shall determine whether the standard or standards to which the order relates is or are substantial and if so may cause such investigation to be made as the standards board considers necessary to enable it to determine whether or not the order has been complied with in accordance with its terms and if not, whether the noncompliance is substantial.

"(3) Where the standards board determines under subsection (2) that substantial noncompliance with a substantial standard has occurred and is subsisting, the standards board shall give to the minister a report in writing setting out the findings of the standards board in respect of the matter and shall at the same time give a copy of the report to the landlord of the residential complex and to the tenant of any rental unit affected thereby.

"(4) Where the report received by the minister under subsection (3) indicates that substantial noncompliance with a substantial standard has occurred and is subsisting, the minister, on his or her own motion, may order that the collection by the landlord of any increase in the rent for a rental unit in the residential complex affected by the maintenance and occupancy order,

"(a) that takes effect on or after a date specified in the minister's order or;

"(b) that took effect at any time in the nine-month period preceding the date of the minister's order,

"be stayed until the minister either receives a report from the standards board that the residential complex and any effective rental unit located

therein are in substantial compliance with the provisions of the maintenance and occupancy order or so determines under subsection (6).

"(5) An order made by the minister under subsection (4) may provide that where a report from the standards board that the residential complex and the rental units situate therein are in substantial compliance with the provisions of the maintenance and occupancy order is not received by the minister, or where the minister does not so determine under subsection (6), within such period of time as the minister specifies in the order, the right of the landlord to collect any increase in the rent for a rental unit situate in the residential complex is forfeit and no increase in the rent for such a rental unit may be collected by the landlord except in respect of a period commencing after the day the minister either receives such a report from the standards board or determines under subsection (6) that there is substantial compliance.

"(6) Where a landlord to whom an order has been given under subsection (4) completes the work in respect of which the order was made, the landlord may give a notice to that effect to the minister and thereupon or where for any other reason the minister considers it desirable to do so, the minister may inspect or cause to be inspected the work to determine whether there is substantial compliance with the maintenance and occupancy order for the purposes of subsection (4) or (5).

"(7) In deciding whether to make an order under subsection (4), or to include the provision authorized by subsection (5), the minister shall take into account,

"(a) the nature of the work required to be performed to comply with the maintenance or occupancy order and the history of the matter that is the subject of that order;

"(b) actual seasonal factors and financial constraints affecting the ability of the landlord to perform the required work; and

"(c) the availability of the persons and materials required to perform the required work.

"(8) The minister shall not make an order under subsection (4) where an order has been made under section 96 of the Landlord and Tenant Act and where compliance with that order would afford an adequate remedy to the tenant of an affected rental unit.

"(9) Subject to subsection (10), any member of the standards board and any employee of the ministry assigned by the minister to assist the standards board in the exercise of its powers under this act may, on giving adequate prior written notice of the intention to do so, at reasonable times and upon producing proper identification, enter and inspect any residential complex or rental unit located therein.

17:10

"(10) Except under the authority of a search warrant issued under section 142 of the Provincial Offences Act, a member of the standards board or an employee of the ministry referred to in subsection (9) shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

"15a(1) The standards board shall develop and adopt such minimum maintenance standards as it considers appropriate to make applicable to residential complexes and the rental units located therein that are situate in an area,

"(a) where no bylaw passed under section 31 of the Planning Act, 1983 or a predecessor thereof or passed under any special act respecting standards for maintenance and occupancy is in force;

"(b) where, although such a bylaw is in force, the maintenance standards set out in it are, in the opinion of the standards board arrived at after consultation with the council of the municipality concerned, inappropriate for the purposes of this act; or

"(c) where, although such a bylaw is in force, the methods of enforcement of the bylaw are, in the opinion of the minister arrived at after consultation with the council of the municipality concerned, inappropriate for the purposes of this act.

"(2) Upon adopting minimum maintenance standards under subsection (1), the standards board shall cause the standards to be published in the Ontario Gazette and shall give such further notice thereof as the standards board considers appropriate to bring the standards to the attention of landlords of residential complexes and the tenants of the rental units located therein that are affected thereby.

"(3) Upon receiving a complaint under clause 15(1)(f), the standards board shall cause such investigation to be made as the standards board considers necessary to enable it to determine whether there exists substantial noncompliance with a substantial maintenance standard adopted by the standards board.

"(4) Where the standards board is satisfied that there exists in respect of a residential complex or the rental units located therein substantial noncompliance with a substantial maintenance standard adopted by the standards board, the standards board may make and give or cause to be given to the landlord of the residential complex an order containing,

"(a) the municipal address or legal description of the residential complex;

"(b) reasonable particulars of the work to be performed and the period within which there must be compliance with the terms of the order; and

"(c) the time limited for applying to the minister for a review of the order.

"(5) Where a landlord to whom an order has been given under subsection (4) is not satisfied with the terms of the order, the landlord may within 14 days of the giving of the order, make an application in the prescribed form to the minister to review the order.

"(6) On an application under subsection (5), the minister may by order,

"(a) affirm the order of the standards board;

"(b) quash the order of the standards board;

"(c) vary the order of the standards board; or

"(d) substitute the minister's own order for the order of the standards board.

"(7) An order of the minister made under subsection (6) may be appealed to the board only by the landlord and then only in the manner and under the circumstances set out in subsection (9).

"(8) Where the minister, on the report of the standards board is satisfied that an order made under this section has not been substantially complied with in accordance with its terms within the period set out for doing so, the minister, after taking into account the matters mentioned in subsection (15)(7), may, on his or her own motion, make any order the minister is empowered to make under subsection 15(4) or 15(5), the provisions of which subsections apply with necessary modifications.

"(9) Where the landlord appeals to the board from an order of the minister made under subsection (8), the landlord may at the same time appeal from any related order of the minister made under subsection (6), and where the landlord does so the board shall hear and determine both appeals together."

Are there any comments on section 15? Do you wish this stood down?
Section 15 is stood down.

Mr. Gorden: Mr. Chairman, I have a question. Did Mrs. Smith read the immunity for acts done in good faith, subsection 14(4)?

Ms. E. J. Smith: Pardon me, this has just been drawn to my attention. Once again, it was not in my book. I ask that it be reopened.

Mr. Chairman: If the committee is in a generous mood, it will do it for you.

Ms. E. J. Smith: I do not know whether you want to finish section 15 first, or shall I go back now?

Mr. Chairman: We stood section 15 down. Why do you not move your additional section?

On section 14:

Mr. Chairman: Ms. E. J. Smith moves subsection 14(4):

"No action or other proceedings for compensation or damages shall be instituted against the standards board or any member of the standards board for any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power."

Shall the motion carry?

Subsection 14(4) agreed to.

Section 14, as amended, agreed to.

Mr. Reville: In view of the fact that it is 5:17 p.m. and we agreed to adjourn at 5, can we adjourn now?

Mr. Chairman: Before we adjourn, I would like to thank Fred Bever and Mr. Andrade for their presence today from RRAC. It is nice to have the backup support here. We will meet next on November 17 following routine proceedings in the Legislature.

The committee adjourned at 5:18 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT
RESIDENTIAL RENT REGULATION ACT
MONDAY, NOVEMBER 17, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsview L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, E. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Fader, J. A., Deputy Senior Legislative Counsel
Richmond, J. M., Research Officer, Legislative Research Service

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)
Peters, F. H., Executive Director, Rent Review Division

ERRATUM

No. Page Line

Should read:

R-57 R-20 43

Instead of helping the people who need help and concentrating help on those who need help, spreading it over all pre-1976 buildings and arguing that there will be an affordability problem for all those tenants living in all pre-1976 buildings is counterproductive.

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday, November 17, 1986

The committee met at 3:44 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The resources development committee will come crisply to order. When we adjourned, we had gone through the bill once from beginning to end to determine which sections there was agreement on and we had passed those sections. Then we started over and got back up to the end of section 15 doing the same thing.

We have a choice to make today, whether to start again with section 1 and move any amendments made by members or the ministry. This would mean that we would be completing the bill as we worked our way through it rather than hopscotching our way through on areas of common agreement. My suggestion is that we start on section 1. It is a much tidier way of working through the bill. If the committee wishes otherwise, that is fine.

Mr. Reville: I like your suggestion to start back at the beginning and knock it off.

Ms. E. J. Smith: Wait a minute. Starting at the beginning of what?

Mr. Chairman: At the beginning of the bill.

Ms. E. J. Smith: I thought it was understood that we might continue, starting at section 16, going on from there and then going back to the beginning at the end. Sections 13 and 15 are the most complicated and diverse. We have gone by them. If we carried on to 16--

Mr. Reville: If I may speak again to that, it is necessary to continue to hold down section 15 because there are a number of matters I would still like clarified. I do not think that is the situation in respect of some of the amendments to earlier sections, but I would be happy, if the committee felt insecure about moving ahead on any of the earlier amendments, to indicate that at the time and we can continue to hold them down. Most of the matters prior to section 15 are not hugely controversial and we might get some significant parts of the bill finished. That is my view.

Ms. E. J. Smith: I certainly join with your aim. I did not know that we wanted to get into involved definitions yet. Certainly, some of the earlier things are easy to clean up.

Mr. Chairman: There has been an unusual request for a short hiatus of the committee's deliberations. Five minutes would satisfy Mr. Gordon to sort out something with his advisers. I know we just started but if the committee would agree to that, we will have a 10-minute adjournment and start again at 3:55 p.m.

The committee recessed at 3:47 p.m.

16:02

Mr. Chairman: We have been discussing how to proceed with the bill. I was under the impression that we could proceed with section 1 but I am informed by members that they would prefer to continue the way we were doing through section 16 because they still want more time to work out some of the sections between 1 and 15. Are there any objections to that?

Mr. Reville: I do not want to be at all difficult but I pray the committee's indulgence in allowing me to move one teensy little amendment prior to section 16. I will tell you the one it is so you can look at it. If you think it is a problem, by all means we will stand it down. It is clause 4(2)(b), the amendment I made on November 3 which adds some little words to the end of the government section. It relates to co-operative housing. If I might be allowed that one deviation from procedure to move that amendment, speak to it briefly and then let the will of the committee prevail, I would be grateful.

Ms. E. J. Smith: It would be a good idea to allow the motion to be made and stood down. Then we could proceed.

Mr. Reville: It is already moved. I wanted it to be dealt with, that is all. If the committee does not want to deal with it, I will suffer away.

Ms. E. J. Smith: It is just that we have not had time to discuss a number of things. Today I would rather go with section 16.

Mr. Chairman: There is no sense starting over from section 1 if there is not some agreement.

Mr. Reville: That is true.

Mr. Chairman: Let us move on then. Mrs. Smith had moved section 15 and had read it into the record but it was stood down. We were prepared to move on. Sections 16 and 17 have already been carried. That brings us to section 18 which has been deferred. Are there any comments or amendments on section 18? Mr. Reville has an amendment.

On section 18:

Mr. Reville: I am still gnashing my teeth here. I have an amendment to that section. I am almost sure of it. You will notice that my amendments are organized in parts of the bill so that they will be easy to discover.

Mr. Chairman: Mr. Reville moves that subsection 18(5) of the bill be amended by adding, after the word "appropriate" in line nine the words, "including delay in the first effective increase or of all the increase dates in respect of an application under section 71 and shall give notice in writing of the extension of time to all affected parties."

I should have asked about subsections 18(1) to 18(4), first of all. Are there any comments? Shall subsections 18(1) to 18(4) carry? Carried.

Mr. Reville, do you wish to speak to your amendment?

Mr. Reville: Yes. This is an amendment that will provide a sanction

for the late giving of a notice of an application for whole building review. It allows the minister to respond to the delay by extending the increase dates appropriately. It is a procedural amendment which I think creates fairness.

Mr. Chairman: Are there any further comments on subsection 18(5), as amended by Mr. Reville? Ms. Caplan.

Ms. Caplan: I would point out that the subsection as drafted already provides the minister with this power when it says, "the minister may attach such terms and conditions to the extension of time as the minister considers appropriate and shall give notice in writing of the extension of time to all affected parties." I suggest that the motion is redundant and not required.

Mr. Chairman: Any other comments on subsection 18(5)?

Mr. Reville: Call the question.

Mr. Chairman: The question has been called. All those in favour of subsection 18(5), as amended by Mr. Reville, please indicate. All those opposed?

Motion negatived.

Shall subsection 18(5) as is in the bill carry? Carried.

Shall subsection 18(6) carry? Carried.

Do not let me rush you here. I will go through them but if you want to think about it a minute, please indicate.

Shall subsection 18(7) carry? Carried.

Section 18 agreed to.

Mr. Chairman: Section 19 has been deferred as well and there is a government amendment to subsection 19(2). Shall subsection 19(1) carry as is in the bill? Subsection 19(1) is carried.

Ms. E. J. Smith moves that subsection 19(2) of the bill be struck out and the following substituted therefor:

"(2) The landlord shall, before entering into a tenancy agreement with a new tenant, give the new tenant a notice in writing setting out the maximum rent for the rental unit and shall inform the new tenant of the most recent notice of rent increase given, any pending application made by the landlord under this act and any current order made in respect to an application or made on the minister's own motion and any notice of appeal that is pending therefrom."

Ms. E. J. Smith further moves that section 19 of the bill be amended by adding thereto the following subsection:

"(3) Where the landlord fails to give the new tenant a notice setting out the maximum rent for the rental unit, if the rent initially charged the new tenant is less than the maximum rent, subsection 68(3) does not apply unless the new tenant has occupied the rental unit for at least a 24-month period."

You have heard the amendment. Does anyone wish to speak to the amendment moved by Ms. Smith? Are you ready for the question?

Mr. Reville: It is my opinion that these amendments are housekeeping in nature. I think we have hit the 100 mark in government amendments.

Ms. E. J. Smith: This is for clarification and so that it will be in the interests of the tenants. It is strictly to clarify.

Mr. Chairman: The chair also expresses some incredulity at the latest amendment, Mr. Reville, but nevertheless, they are with us.

Section 19, as amended, agreed to.

16:10

Mr. Chairman: Section 20 has already been carried, as have sections 21, 22, 23, 24, 25, 26 and 27.

On section 28:

Mr. Chairman: Section 28 was stood down because there is an amendment from Mr. Reville.

Mr. Reville: There is indeed.

Mr. Chairman: Mr. Reville moves that section 28 of the bill be struck out and the following substituted therefor:

"28. At any time before an order has been made on an application made to the minister or on a matter that has been commenced on the minister's own motion, the minister,

"(a) may, at his or her discretion; and

"(b) shall, upon the filing with the minister of a request therefor in the prescribed form by a landlord or tenant directly affected,

"refer the application or matter to the board and the board in such case shall hear and determine the application or matter as though it were an appeal under part VII."

Mr. Reville: This amendment is a threshold matter, it would be fair to say, because it changes the thrust of the bill significantly. One of the features of the bill as advertised by the government is a new system of administrative review, which it alleges will create a less adversarial atmosphere between tenants and landlords. This approach of the government betrays a fundamental misunderstanding of the power relationship involved.

I am concerned that the administrative process as recommended by the government will not be to the advantage of the tenant, that issues that should be raised will not be raised at the administrative review stage and that at the appeal stage there are limitations as to the issues that can be addressed. In cases where there has been a history of acrimony between landlords and tenants, the administrative review process will merely prolong the process, because there will undoubtedly be an appeal and we are tacking a time period on the front end that will be of no moment whatsoever. I am particularly concerned that tenants may be buffaloed by the administrative review process and that issues they should know about will not be discussed.

I agree that this amendment provides a mechanism to bypass the administrative review, and that is precisely why I have moved it.

Ms. Caplan: I believe this is fundamental to the recommendations of the Rent Review Advisory Committee in that it adds increased tenant protection, particularly for those who are unorganized and have found the formal hearing process intimidating, as we have heard. As well as increased tenant protection, it offers, particularly to small landlords who have similarly found the review process intimidating, an administrative review which will make this process less adversarial than it has been in the past.

As I say, this is fundamental to the RRAC recommendations. I want to point out that both of Mr. Reville's concerns are already addressed in the bill; under section 28, the minister can refer any application directly to the appeal stage, and under clause 29(1)(c), the minister is empowered to arrange to hold meetings between the parties to an application. This therefore further protects the rights of both landlords and tenants.

I want to point out that if this amendment is supported, it will remove the right of appeal because, as we know, there is no appeal of the decision of the Rent Review Hearings Board. That is also fundamental jurisprudence. It is our view--and the law committee's recommendations suggest--that a far less adversarial forum to see whether the problems can be resolved at the administrative level is fundamental to this bill. It allows for a review if the landlord and tenant are unsuccessful on administrative review or are dissatisfied with administrative review.

For all those reasons, I will not support the amendment. The bill adequately addresses those issues and in fact provides greater tenant protection than the existing situation.

Mr. Reville: The issue is joined, Mr. Chairman. Why do we not call the question?

Mr. Chairman: All those in favour of Mr. Reville's amendment, please indicate. All those opposed?

Motion negated.

Section 28 agreed to.

On section 29:

Mr. Chairman: Section 29 was stood down as well. There is an amendment from the ministry. I do not have a copy of that amendment.

Ms. E. J. Smith: It is not a new one. It is the one in the bill.

Mr. Chairman: I never read that one.

Ms. E. J. Smith: We had not had them formally read into the record. I guess subsections 1 and 2 were already dealt with.

Mr. Chairman: Ms. E. J. Smith moves that subsection 29(3) of the bill be amended by striking out "persons" in the fourth lines and inserting in lieu thereof, "landlords and tenants" and by striking out "person" in the fifth line and inserting in lieu thereof, "landlord or tenant."

The whole of section 29 was stood down. The amendment has been read in for subsection 3. Shall subsection 29(1) carry? Carried. Shall subsection 2 carry? Carried.

Ms. Smith, do you wish to speak to the amendment to subsection 3?

Ms. E. J. Smith: The amendment would insert "landlords and tenants" instead of "persons" for clarity.

Mr. Chairman: Any other comments on subsection 3 and Mrs. Smith's amendment?

Mr. Reville: No comments.

Mr. Chairman: Shall subsection 3, as amended by Ms. Smith, carry? Carried. Any comments on subsection 29(4)? Carried? Carried. Subsection 29(5)? Carried.

Section 29, as amended, agreed to.

Mr. Chairman: Section 30 was already carried.

On section 31:

Mr. Chairman: Section 31 was deferred. There is an amendment by Mr. Reville.

Mr. Reville: My amendment is redundant given the failure of my amendment to section 28, so I will withdraw same.

Ms. E. J. Smith: There is an amendment by the government, previously noted, that I should read into the record.

Mr. Chairman: According to my notes, it has already been moved. Does anyone wish to speak to section 31 as amended in the proposed amendment?

Section 31 agreed to.

Mr. Chairman: Section 32 was already carried. Section 33 was carried.

16:20

On section 33a:

Mr. Chairman: Section 33a was stood down. Any comments on section 33a?

Ms. E. J. Smith: I am wondering, Mr. Chairman, whether subsection 33a(1) has to be read in.

Mr. Chairman: The whole section was stood down.

Ms. E. J. Smith: Yes, I think probably I have to read that in too. I will go back and start at section 33a.

I move that the bill be amended by adding thereto the following section:

"33a(1) Where the minister or the board makes an order requiring a landlord to pay an amount of money to a tenant, the minister or the board may make an order that the tenant may recover the amount by deducting a specified sum from his or her rent for a specified number of rent payment periods.

"(2) Where the minister or the board makes an order requiring a tenant to pay an amount of money to a landlord, the minister or the board may make an order permitting the tenant to pay the amount by paying a specified sum, together with his or her rent, for a specified number of rent payment periods."

Shall I continue with subsection 33a(2)?

Mr. Reville: Please do.

Mr. Chairman: I thought you were reading subsection 2.

Ms. E. J. Smith: Pardon me. I am sorry. Yes, that is the one that is supposed to be amended.

Subsection 33a(1) is as I read it.

Regarding subsection 33a(2), I move that subsection 33a(2) be struck out and the following substituted therefor:

"(2) the minister or the board may, on the application of the tenant, rescind an order made under subsection (1) and may order that any compensation still owing be paid in a lump sum."

Mr. Chairman: Do other members have a copy of that? I do not.

Ms. E. J. Smith: It is the new one.

Mr. Reville: I think there is a small glitch here, Mr. Chairman--

Mr. Chairman: I think so too. I do not have a copy.

Mr. Reville: Why do we not adjourn for a few days while the government sorts itself out?

Mr. Chairman: Do you have a copy of that, Ms. Smith?

Ms. E. J. Smith: I have the--

Mr. Reville: What I want to know is, do we end up with two sections?

Ms. E. J. Smith: Section 33a has two subsections. Subsection 33a(1) is as we had it when we went through this the first time. Subsection 33a(2) is as I just read it; it is much shortened.

Mr. Chairman: Yes. Subsection 33a(1) is as in the reprinted bill and subsection 33a(2) is as amended today.

Are there any comments on subsection 33a(1) as it is in the bill? Shall subsection 33a(1) carry? Carried. Shall subsection 33a(2), as amended by Ms. E. J. Smith, carry? Carried.

Section 33a, as amended, agreed to.

Mr. Chairman: Section 34 was carried previously.

In part IV, section 35 was carried.

On section 36:

Mr. Chairman: Section 36 was stood down. Are there any comments on section 36?

Mr. Reville: This relates to AML8, Mr. Chairman.

Mr. Chairman: I do not know that.

Are there any comments on section 36? Shall subsection 36(1) carry? Carried. Shall subsection 36(2) carry? Carried. Shall subsection 36(3) carry? Carried.

Section 36 agreed to.

Mr. Chairman: Sections 37, 38, 39 and 40 were carried previously.

Section 41 was deferred. Are there any comments?

Mr. Reville: Just hang on a second, Mr. Chairman.

Mr. Chairman: Since you have an amendment here--

Mr. Reville: I have an amendment, but I am still making some notes on this paper I have been handed. I want to be up to date, because it is a record of this incredible process.

Mr. Chairman: Historians will be grateful, Mr. Reville.

Mr. Reville: They will.

What I have to say in connection with section 41 is that I want the matter to be stood down, but what I am trying to achieve is eluding me just at the moment and I want to investigate the appropriate words that will convince the committee to support this amendment.

Mr. Chairman: There are no problems with standing that down for the moment? It is not as though we were setting a precedent.

Mr. Epp: In fact, it would be the exception not to.

Mr. Chairman: All right; section 41 is stood down.

Sections 42, 43, 44, 45, 46--as a matter of fact, right through to 51--were previously passed. We move to part V, rent registry.

On section 52:

Mr. Chairman: Section 52 was stood down. It was a government amendment.

Ms. Smith moves that the definition of "actual rent" set out in subsection 52(1) of the bill be struck out and the following substituted therefor:

"'actual rent,' except where otherwise prescribed, means the rent actually charged for a rental unit as of the actual rent date."

Mr. Reville: Is there not more to that?

Mr. Chairman: That is all for the "actual rent" definition. Are there any comments on subsection 52(1), the definition as to rent, as amended by Ms. Smith? Shall subsection 52(1), "actual rent" definition, carry as amended? Carried. That, I assume, means clauses 52(1)(a) and 52(1)(b) are carried as well. Carried.

Mr. Reville: On a point of order, Mr. Chairman: The amendment that has been distributed to me has a clause (b) that says, "in the case of subclauses (i) and (ii)." I have not heard them being moved yet.

Mr. Chairman: I have not seen that.

Ms. E. J. Smith: Subsection 52(1) is just the definition of "actual rent." Subsection 52(2)--

Mr. Reville: This is not real, this piece of paper I have that says "Government Motion" on it?

Ms. E. J. Smith: There was already a government motion moved on section 52. I moved that subsection 52(2) of the bill be struck out, I think. That is out in the printed matter, you see; it is already out.

Mr. Chairman: You would have to go back to the original bill.

Mr. Reville: I have been handed a piece of paper that is causing me some difficulty, because it is considerably longer than that which Ms. Smith read into the record, and it looks like this.

Ms. E. J. Smith: I do not have that piece of paper, but I am willing to see if I am missing something here. Is anyone able to help me?

Mr. Chairman: My understanding, if these notes--

Ms. E. J. Smith: This is what mine looks like, Mr. Reville.

Mr. Reville: I would like one of those, because I think somebody is trying to keep me in the dark.

Ms. E. J. Smith: It is rather short and to the point. I am not trying to keep you in the dark. You may be keeping me in the dark.

Mr. Chairman: Ms. Smith, help me out here.

Ms. E. J. Smith: Yes?

Mr. Chairman: It seems to me that subsection 52(2), which does not show on the reprinted bill, was--

Ms. E. J. Smith: It was stood down also.

Mr. Chairman: Wait a minute. Let me finish. Subsection 52(2) was struck out by government motion previously, which is why it is not in the reprinted bill, but it was not voted on.

Mr. Reville: I would like to table this set of documents which says "Government Motion" on it. I do not know what it is about.

Ms. E. J. Smith: For clarity, we are dealing right now with subsection 52(1), right?

Mr. Chairman: Right.

Ms. E. J. Smith: Subsection 52(2), by my record of our last meeting, was also stood down. It is a deletion and it was stood down or struck out. But at this point Mr. Reville feels there is a subsection 52(1) amendment that was longer; I do not have that. The striking down of subsection 52(2) is a separate issue, as far as I am concerned.

Mr. Chairman: Right. I think perhaps this is helpful then. I have the same amendment--you have heard Mr. Reville's amendment--where there are clauses 52(1)(a) and (b). Clause 52(1)(b) is subdivided into subclauses (i) and (ii) as well. But according to our record, that was never moved as an amendment.

Ms. E. J. Smith: I do not have that. I simply do not have it. If I have lost it in my mountains of paper--

Mr. Chairman: Please do not do that. Can we go back? That motion was never moved. Section 52 will consist of subsection 52(1), and then the amendment moved by Mrs. Smith will deal with subsection 52(1) and the definition of "actual rent." There will only be a clauses (1)(a) and (1)(b) in 52.

16:30

Ms. E. J. Smith: That is right. Subsection 52(2) is gone. We may need to move that it be struck out. By my records, it was also stood down.

Mr. Chairman: We have two things to accomplish here. First, we must amend subsection 52(1) and second, we must vote on the deletion of subsection 52(2). Let us do those in order.

Shall subsection 52(1) be carried, as amended by Mrs. Smith? Carried.

Shall subsection 52(2) be deleted, as the amendment of Mrs. Smith would do? Carried.

Section 52, as amended, agreed to.

Mr. Chairman: Section 53 was previously passed. Section 54 was deferred.

On section 54:

Mr. Reville: I do not have any concerns about section 54.

Ms. E. J. Smith: As printed?

Mr. Reville: As printed.

Mr. Chairman: Shall subsection 54(1) carry? Carried.

Shall subsection 54(2), as amended, carry? Carried.

Section 54, as amended, agreed to.

On section 55:

Mr. Reville: As a preamble to this next difficult exercise, part V, the rent registry, is an area in which the bill is woefully inadequate. I have moved what I describe as a ton of amendments to part V. So woefully inadequate is the bill that I have moved some alternative amendments in the hope of persuading this committee to see, if not all the light, at least some of it.

I wonder if I can get a procedural ruling, given that I have a tough version and one that is less tough. Is there a way for me to do two things at once and not be out of order? I know this is going to challenge the chairman.

Mr. Chairman: What is required here is for Mr. Reville to make a judgement as to his best fallback position.

Mr. Reville: I wish the chairman would let me be the judge of that.

Mr. Chairman: Absolutely. I am encouraging you to do that.

Mr. Reville: I will move my initial amendment to section 55 and we will see what happens. It is headed "to be moved first," so that should give you the hint.

Mr. Chairman: Mr. Reville moves that section 55 of the bill be struck out and the following substituted therefor:

"55. Every landlord of a residential complex shall file a statement in the prescribed form with the minister,

"(a) on or before the first day of the month that falls not sooner than 90 days after the day this section comes into force, in respect of all rental units in the residential complex that were rented on or before the day this section comes into force; and

"(b) within six months of the day the first of the rental units in the residential complex not mentioned in clause (a) becomes rented and thereafter every six months until a statement has been filed in respect of all rental units in the complex."

Mr. Reville: This requires that all landlords, whether they have complexes of six units or fewer or more or whether they are owners of boarding and lodging houses, are required to register right away. It is a very simple, clean, wonderful amendment, and I am sure the bureaucracy of the Ministry of Housing is equal to this task. It would be a good idea for the tenants of Ontario, 446,000 units, all of which are being left high and dry.

Ms. Caplan: Without casting any aspersions on the Ministry of Housing officials, I would like to suggest--

Mr. Reville: I think you are about to.

Ms. Caplan: --this kind of amendment would have the reverse effect that the member would like it to have, that is, it would cause substantial delay because of the work load it would impose. It would reduce efficiency in getting the registry up and running and reduce the ability to perform the rigorous verification that will be required. It is for that prime reason that I cannot support it. I believe the approach the government has chosen will offer maximum efficiency and the greatest tenant protection in getting on with the rent registry.

Mr. Bernier: Could the minister tell us when these units being exempted under this section would come into the system?

Hon. Mr. Curling: As soon as we get the first phase completed we expect to start on the second phase. I am sure that after completing the first phase we will have learned a lot and the second phase will move much quicker.

Mr. Bernier: Does the minister have any idea of the time frame?

Hon. Mr. Curling: I would have to ask the staff about the time frame we are looking at.

Mr. Peters: Five years.

Hon. Mr. Curling: No, I do not think so.

Mr. Reville: I do. Any advance on five? Could we hear four?

Mr. Peters: The challenge facing us is to make sure that we are able to cope with the volume. I am unable at this point to indicate a specific time. We have been saying the issue would be addressed within the limits of administrative feasibility, and that is about all I can offer at this point.

Mr. Bernier: You should be a politician.

Mr. Chairman: Any other comments?

Shall section 55, as amended by Mr. Reville's amendment, carry? All those in favour, please indicate. All those opposed?

Motion negatived.

Mr. Chairman: Mr. Reville, do you wish to move to the next one?

Mr. Reville: Absolutely. The committee will like this one even better. This does precisely what Mr. Bernier wants. I have decided to call this the Bernier amendment. It is very long, but never mind.

Mr. Chairman: Mr. Reville moves that section 55 of the bill be struck out and the following substituted therefor:

"55(1) Every landlord of a residential complex containing more than three rental units and every landlord of a residential complex that is a boarding house or a lodging house shall file a statement in the prescribed form with the minister,

"(a) on or before the first day of the month that falls not sooner than ninety days after the day this section comes into force in respect of all rental units in the residential complex that were rented on or before the day this section comes into force; and

"(b) within six months of the day the first of the rental units in the residential complex not mentioned in clause 55(1)(a) becomes rented and thereafter every six months until a statement has been filed in respect of all rental units in the residential complex.

"(2) Every landlord of a residential complex containing three or fewer units shall file the statement mentioned in subsection 55(1),

"(a) on or before the first day of the month that falls not sooner than"--

Mr. Reville: That is the Bernier part.

Mr. Chairman: "--one year after the day this section comes into force, in respect of all rental units in the residential complex that were rented on or before that date; and

"(b) within six months of the day the first of the rental units in the residential complex not mentioned in clause (a) becomes rented and thereafter every six months until a statement has been filed in respect of all rental units in the residential complex.

(3) "A landlord of a residential complex containing three or fewer units may file the statement mentioned in subsection (1) at any time."

16:40

Mr. Reville: This actually does three things in total. The first thing it does is to put about 80,000 more units in phase 1 and all boarding and lodging houses into phase 1. That is important, given that the building and lodging houses are under extreme and heavy pressure these days.

The second thing it does is to prescribe the date, which has been left out of the bill, at which phase 2 should occur. It gives the excellent bureaucracy in the employ of the Ministry of Housing a whole year to get ready to do phase 2. It answers the very thoughtful question Mr. Bernier asked earlier.

Ms. Caplan: Without restating my comments on the first amendment, I would like to talk about the need for an efficient startup of the registry. There is protection for those people in units not covered in phase 1, and that is in section 65, where any landlord applying for an increase later than the guidelines will be required to register.

That portion of the bill--and we do not know at this time how many landlords there will be--is sufficient argument to say the government approach is the best one. It allows for an orderly phase-in to ensure the greatest amount of tenant protection possible. I will not support the amendment for those reasons.

Mr. Reville: I want to make one comment in rebuttal. I am not disputing any of the things you have said, Ms. Caplan. Section 65 does provide for that, but my concern is that in many cases the occupants of boarding and lodging houses will not know they are subject to the act. In fact, there will not be a real application for an increase that is higher.

Ms. Caplan: I believe the excellent educational program the ministry is going to be offering will respond to that and ensure that every tenant in Ontario knows of the protection that Bill 51 affords them. Therefore, I disagree with your comments that tenants will not know.

Mr. Reville: Endless rebuttals are properly in order, so why do we not hear from Mr. Morin-Strom.

Mr. Morin-Strom: The implementation of the rental registry should be within a time period that will allow it to be implemented on an

across-the-board basis. I do not think it is fair to the province to leave it up in the air; neither do I think it is particularly fair in an issue that faces us in northern Ontario, the difficulty of finding staff to carry out this task.

There is an employment opportunity here, and the ministry should be able to handle this function. In northern Ontario, I would like to see the jobs phased in over a one-year period, which is what is proposed under my colleague's amendment, rather than see it phased in over a five-year period or who knows when. I would like to see the protection of a specific time frame for residents of Ontario and the phase-in over six months or one year for the two groups identified in this amendment.

That is very reasonable. If it requires additional staffing in the ministry across Ontario, that is a benefit to the many areas that require it. I hope the members from northern Ontario who are sitting here today, who need employment in the north, will support this wise amendment.

Ms. Caplan: Reservations and concerns have been expressed about the cost of the rent registry, as well as about the number of bureaucrats who would be required to run it efficiently. I have heard from my constituents that everyone is concerned about the growth of government.

While I can understand where my colleague on the left is coming from, I believe the approach chosen by this government will ensure an efficient startup and a mechanism to allow for an orderly phase-in to the benefit of all tenants and ensure that the bureaucracy will not be increased at a rate other than that absolutely required. It is the correct approach.

Mr. Chairman: The committee has heard the amendment and the arguments. All those in favour of Mr. Reville's amendment?

Mr. Reville: I was convinced.

Mr. Chairman: Mr. Reville convinced himself. All those opposed?

Motion negatived.

Mr. Chairman: Mrs. Smith has already moved an amendment which is as the bill is reprinted.

Ms. E. J. Smith: As the bill is reprinted, right.

Mr. Chairman: Do you wish to speak to that, Mrs. Smith?

Ms. E. J. Smith: No, and I do not need to read it in. It is just as reprinted.

Mr. Chairman: All right. Any comments on section 55 as amended and reprinted in the bill? First, let us deal with subsection 55(1).

Mr. Reville: Why do we not do it all together?

Mr. Chairman: Is the committee prepared to do that?

Mr. Reville: Yes, one vote will do it.

Mr. Chairman: Any comments on section 55 as amended? All those in favour? All those opposed? Carried.

Section 55, as amended, agreed to.

On section 56:

Mr. Chairman: Section 56 was stood down as well.

Mr. Reville: It is not stood down by my account.

Mr. Chairman: Any comments on section 56?

Ms. E. J. Smith: Section 56 has a printed amendment.

Mr. Chairman: It has been read into the record. Any comments on section 56 as amended and reprinted? Shall section 56 carry?

Section 56, as amended, agreed to.

On section 57:

Mr. Chairman: Subsections 57(1) and (2) were carried. Subsection 57(3) was stood down, according to my notes. Any comment on subsection 3 as amended by the government?

Mr. Reville: I have amendments to subsections 2 and 3.

Mr. Chairman: Yes, you do. I am sorry.

Mr. Reville: Just to keep the bookkeeping straight, I believe the whole section was stood down, although the amendments were read in. Am I right?

Mr. Chairman: Yes. I have subsection 57(1) as carried.

Mr. Reville: That is right.

Mr. Chairman: Mr. Reville moves that subsections 57(2) and (3) be struck out and the following substituted therefor:

"(2) Where the actual rent for a rental unit set out in the statement is the same as or lower than the amount calculated under subsection (1), the time for making an application under section 59 in respect of that rent unit shall be not later than ninety days from the day of the giving by the minister of a notice under section 58.

"(3) Where the actual rent for a rental unit exceeds the amount calculated under subsection (1) or where there are no prior orders affecting the rent which may be charged for a rental unit, the time for making an application under section 59 in respect of that rental unit shall be not later than six years from the day of the giving by the minister of a notice under section 58."

Ms. Caplan: I would like to make the point that this is directly contrary to the Rent Review Advisory Committee agreement which this bill is supposed to reflect, and the government is supporting the position of RRAC.

16:50

Mr. Reville: Ms. Caplan has it exactly right. It does run contrary to the RRAC agreement, which is an unconscionable agreement, and should not be

supported by this committee. Indeed, these amendments do something. I cannot quite remember what they do, but I will figure it out in a minute, if the committee will wait briefly while I find one of my collections of papers.

Mr. Chairman: In subsection 57(2) the reference to the prescribed percentage is removed, and in subsection 57(3) as well.

Mr. Reville: Yes, that is what it does. The point of the amendment is that this motion prescribing how illegal something is is an offensive notion to me. Even the theft of a penny strikes me as not only immoral but also illegal. I have a lot of difficulty with the notion that it can somehow be decided that some thefts are to be prohibited and some are not. That is enough of an explanation.

Mr. Chairman: The committee has heard the amendment by Mr. Reville. All those in favour of the amendment to subsections 57(2) and (3), please indicate? All those opposed?

Motion negatived.

Section 57, as amended, agreed to.

On section 58:

Mr. Chairman: Section 58 was stood down. There is an amendment by Mr. Reville.

Mr. Reville moves that section 58 of the bill be amended by adding to subsections 1 and 2 the words "and whether, in the opinion of the minister, the rent recorded in the statement is legal."

Mr. Reville: The ministry is going to some trouble to hand out notices and it might as well go to the trouble of letting tenants know what kind of rents they think have been registered: legal or not legal. I can see no reason for not including that information.

Ms. Caplan: In speaking against this, I think it will be premature to have that kind of determination. In many cases, the minister would not know whether the registered rents were legal until--

Mr. Reville: He should find out.

Ms. Caplan: --there had been an investigation and the tenant dispute was completed. Therefore, this motion would run contrary to the intent of the mover's motion, and I cannot support it.

Mr. Chairman: Are there any other comments on Mr. Reville's amendment to add the identical words at the end of subsections 1 and 2? All those in favour of Mr. Reville's amendment to subsection 58? All those opposed?

Motion negatived.

Section 58 agreed to.

On section 59:

Mr. Chairman: My records show subsections 59(1), (2) and (3) were carried and subsection 59(4) was deferred.

Mr. Reville: I have a modest and almost insignificant amendment to subsection 4.

Mr. Chairman: Mr. Reville moves that subsection 59(4) be amended by substituting for the word "may" in clause (b) the word "shall."

Mr. Reville: This requires the minister to investigate rather than giving him the option of investigating.

Ms. Caplan: The minister is committed to the investigation of all cases where there is evidence that illegal rents exist.

Mr. Reville: Will you support the amendment?

Ms. Caplan: No. The amendment is unnecessary and the adversarial focus on past actions detracts from the forward-looking RRAC recommendations regarding the registry. Therefore, the "may" is what is required, and the government does not support this amendment.

Mr. Chairman: All those in favour of Mr. Reville's amendment, please indicate. All those opposed?

Motion negatived.

Mr. Chairman: Shall subsection 59(4), as in the bill, carry?
Carried. Shall section 59 carry?

Section 59 agreed to.

On section 60:

Mr. Chairman: Section 60 was deferred as well, and there is a government amendment.

Ms. E. J. Smith: I move that the bill be amended by adding thereto the following section:

"60a(1) Where a landlord makes an application under subsection 59(1) or (2) to justify under section 60 the actual rent charged for a rental unit, the landlord shall, not later than 30 days from the date of making the application, file with the minister the documents and material the landlord relies upon in support of the application and such other material as may be prescribed.

"(2) Any tenant affected by the application may inspect the application and any documents and material filed in respect thereof and may submit representations in respect of the application and the documents and material filed therewith not later than 80 days from the date of making the application.

"(3) Where a tenant makes an application under subsection 59(1), the tenant shall, not later than 15 days from the date of making the application, file with the minister the documents and material the tenant relies upon in support of the application and such other material as may be prescribed.

"(4) A landlord who proposes, in response to a tenant's application under section 59, to justify under section 60 the actual rent charged for a rental unit shall, not later than 45 days from the date of the making of the tenant's application, file with the minister a justification in the prescribed

form together with the documents and material the landlord relies upon in support of the justification and such other material as may be prescribed and within 10 days of the filing give a copy thereof to any affected tenant, and where the landlord does so, the tenant may submit representations in response thereto not later than 95 days from the date of the making of the tenant's application.

"(5) A landlord who proposes, in response to the minister's proposal to make an order under subsection 59(4) to justify under section 60 the actual rent charged for a rental unit, shall, not later than 30 days from the giving by the minister under subsection 27(1) of the notice in respect of the proposed order, file with the minister a justification in the prescribed form together with the documents and material the landlord relies upon in support of the justification and such other material as may be prescribed and within 10 days of the filing give a copy thereof to any affected tenant, and where the landlord does so, the tenant may submit representations in response thereto not later than 80 days from the date of the giving of the notice by the minister under subsection 27(1).

"(6) Where the minister extends the time for filing set out in this section, the minister shall notify the parties affected by the application of the extended filing date and of the extended times for making representations in consequence thereof."

Mr. Chairman: I should point out to the committee that this is not an amendment to section 60. Section 61 stays as it is, and this becomes section 60a. Can we deal first with section 60, which is already an amendment to the original bill? Shall subsections 60(1) through 60(4), as in the bill, carry?

Mr. Reville: No, I have amendments to those. I did not want to interrupt Mrs. Smith.

Ms. F. J. Smith: I appreciate that, Mr. Reville.

Mr. Reville: I actually have two amendments to section 60.

17:00

Mr. Chairman: The amendment has now been read into the record, but let us deal with subsection 60(1) first, and then we will go to Mrs. Smith.

Mr. Reville moves that subsection 60(1) of the bill be struck out and the following substituted therefor:

"(1) In any application under section 59, or in response to the minister's own motion under that section, the landlord may justify the actual rent for any rental unit by adding to the rent permitted to be charged set out in the most recent order made under this act, part XI of the Residential Tenancies Act or the Residential Premises Rent Review Act, 1975 (2nd session), or where no order exists, to the rent charged for the rental unit on the 29th day of July, 1975, or on the earliest date thereafter for which the rent charged is known, rent increases that could have been justified on or after the 29th day of July, 1975, and before the 1st day of August, 1985, on an application made under section 126 of the Residential Tenancies Act, had that act been in force during the whole of that period of time and had the disposition of the application been governed by prescribed rules made under this act, provided that such increases are in respect of substantial renovations or other capital expenditures only."

Mr. Reville: Why not do subsection 2 as well and get them both in there?

Mr. Chairman: Mr. Reville moves that subsection 60(2) be struck out and the following substituted therefor:

"(2) The minister shall determine the justified rent increase in accordance with the prescribed rules, provided that such rules require a burden of proof on the applicant to show that substantial renovations or capital expenditures were completed or made and that the costs incurred were appropriate."

Mr. Reville: I have some comments on that, which Ms. Caplan will probably want to wait to hear before she rebuts them.

Ms. Caplan: You can guess what they are.

Mr. Reville: I know what your comments are.

Again, this is a drastic departure from the thrust of the bill. The thrust of the bill provides for an amazing retroactive rent review process, which I do not think is justified at all. It allows a landlord to pretend that a statutory increase was asked for and it allows a landlord to pretend he went to rent review with respect to some expenditure that was made.

In view of the fact that landlords may have had many reasons for not going to rent review or not raising the rent by the statutory amount, it is totally inappropriate to pretend at this stage of the game that they did go to rent review and ask for a statutory increase when, in fact, they did not. The only circumstances under which I can foresee that such a retrospective view should be taken are situations in which actual money was spent to do substantial renovations, where those expenditures can be proven and where those expenditures can be proven to be reasonable, particularly given the difficulties that will be experienced in cases when a landlord alleges that \$28,400 was spent in 1978 on X, Y and Z.

With respect, the tenants may have not a clue whether such money was indeed spent. I find the sections in the bill proposed by the Liberal government which would reflect the RRAC consensus particularly offensive. They should not make it into legislative form.

Ms. Caplan: The position taken by my colleague on the left came as somewhat of a surprise to me, given how understanding he was of the plight of some of the smaller landlords who previously were so unfamiliar with the process that they did not take advantage of what they were legally entitled to.

I remind my colleague that under the previous system, under the old rent regulations, they did not have to ask. There was an entitlement to the legitimate guideline that any landlord was entitled to take on an annual basis. This will penalize many landlords if they do not take the statutory guideline at the time, particularly some of the smaller landlords for whom we heard so much concern expressed during the hearing process.

Second, legitimate cost increases for capital expenditures would be ignored. They should not be. The burden of proof is on the applicant, contrary to my colleague's statement which suggests that they could come in without that burden of proof. That is not the case. They would have to come in and justify and show receipts and so forth for work done. The amendment would hurt

the very people he had so much sympathy for during the hearings. It also suggests there is no burden of proof, which there already is within the existing bill, for those same people to justify the work done. Therefore, we will not support the amendment.

Mr. Chairman: The committee has heard the arguments. All those in favour of Mr. Reville's amendment? All those opposed?

Motion negatived.

Shall section 60, subsections (1) through (4) carry as in the reprinted bill?

Section 60, as amended, agreed to.

Mr. Chairman: We now move to section 60a. The amendment has been moved by Ms. E. J. Smith. Do you wish to speak further to it?

Ms. E. J. Smith: No, thank you.

Mr. Chairman: Are there any other comments on section 60a?

Motion agreed to.

Mr. Chairman: Sections 61 and 62 were previously carried.

On section 63:

Mr. Chairman: Subsections 63(1) and 63(2) were deferred.

Mr. Reville: I would like that to continue to be held down.

Mr. Chairman: Mr. Reville has an amendment to this.

Mr. Reville: I will hang on to the amendment too.

Mr. Chairman: Is there agreement that section 63 shall be deferred along with section 41? Agreed.

On section 64:

Mr. Chairman: Section 64 was deferred.

Mr. Reville: I have an amendment.

Mr. Chairman: Mr. Reville moves that section 64 of the bill be amended by striking out the word "may" in line 5 and substituting therefor the word "shall."

Mr. Reville: It creates a mandatory stay. It is not necessary to speak to it. It should be obvious why I moved it.

Mr. Chairman: Anybody else on section 64?

Ms. E. J. Smith: When we deal with the amendment, there is a printed government amendment.

Mr. Reville: That has been read in, has it not?

Ms. E. J. Smith: It has been read in, but it was stood down after it was read in.

Mr. Chairman: Okay. However, Mr. Reville has moved an amendment to that.

Ms. E. J. Smith: After that.

Mr. Chairman: All those in favour of Mr. Reville's amendment, please indicate? All those opposed?

Motion negated.

Mr. Chairman: We now will deal with the proposed amendment by the government. All those in favour of section 64 as reprinted and amended in the bill? All those opposed?

Motion agreed to.

Section 64, as amended, agreed to.

17:10

Mr. Chairman: Section 65 has already been passed.

On section 66:

Mr. Chairman: Section 66 was deferred.

Mr. Reville moves that section 66 of the bill be amended by adding thereto: "and the minister shall give notice to tenants annually in respect of changes in the information in the rent registry save and except a change in respect of a statutory increase permitted to be taken under this act."

Mr. Reville: This adds to the responsibilities of the minister and advises tenants on an annual basis of all the uninteresting action that has taken place in respect of their units. It will create much-needed jobs. More important, it will make sure tenants are up to date and will know on what day they have to move.

Mr. Chairman: Am I correct that would be added after the word "applicable" near the beginning?

Mr. Reville: No. I suppose it should appropriately be clause (g), or it could be done out flush as they do sometimes when they put it out to the side under all those little letters. You do not need to worry about this much.

Mr. Chairman: We would if it passed.

Mr. Epp: Do you think we should do it under a separate bill?

Mr. Cordiano: This amendment, with respect to the others you have made, adds significantly to the costs involved. It adds more bureaucracy. The same arguments that were used in the other cases can be used with respect to this amendment.

Mr. Reville: Just say "ditto" if you want.

Mr. Cordiano: In addition, tenants have access to the rent registry at any time and can get the information they require. That is the purpose of the rent registry.

Mr. Reville: In rebuttal, in view of your interest in this educational program for tenants, I thought you would want to support an amendment such as this. There is nothing more educational than to know what rent review orders have occurred with respect to your unit and what increases are being phased in. That sort of thing would be very educational.

Mr. Cordiano: You are presuming the information that might be required is not available. It will be. The tenant simply has to request it.

Mr. Chairman: You have heard the amendment. All those in favour of Mr. Reville's amendment, no matter where it goes, please indicate. All those opposed?

Motion negatived.

Mr. Reville: I was on a roll there for a minute, which I thought I was going to lose.

Mr. Chairman: Does section 66 as it is in the reprinted bill carry?

Section 66, as amended, agreed to.

Ms. Caplan: Why can we not proceed with section 63 today?

Mr. Reville: Because we cannot.

Ms. Caplan: Do you not want to proceed with it today?

Mr. Chairman: Perhaps I can help. To this point, whenever any party has wished to stand down a section, there has been agreement that will happen because the bill is a complicated one.

Interjection: It is because we are very agreeable.

Ms. Caplan: Fine. I wondered whether there was a specific reason.

Mr. Reville: There is a specific reason. The amendment I have moved is not precisely the one I should be moving and I am taking some advice from the Rent Review Advisory Committee in respect of this amendment.

Hon. Mr. Curling: I told you they would be of some use to you at some time.

Mr. Chairman: He is ingratiating himself.

Ms. Caplan: It is surprising they will even talk to you after all the nasty things you have said about their recommendations and their hard work.

Mr. Reville: They talk to me a lot. You would be surprised.

Mr. Chairman: Is the committee prepared to move on to part VI, which is rent regulation? Section 67 was carried.

Mr. Reville: No. I do not have my petitions with me. I am not going on to part VI. Can we go back to the beginning, as I suggested earlier?

Mr. Chairman: Is the committee prepared to go back to the beginning yet?

Ms. E. J. Smith: No.

Mr. Chairman: All right. This is like a request for a deferral. We will agree to that and continue tomorrow, which is Wednesday, with sections 67, 68 and so on through the bill.

The committee adjourned at 5:15 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

WEDNESDAY, NOVEMBER 19, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsview L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, E. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Fader, J. A., Deputy Senior Legislative Counsel

Witness:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)
Stratford, L. A., Senior Solicitor, Rent Review Division

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday, November 19, 1986

The committee met at 3:41 p.m. in room 151.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The committee will come to order. The clerk has distributed to members the status of the bill as we have progressed through it, indicating what sections have been carried and what sections have been deferred. When we adjourned on Monday, we had completed up to the end of part V, section 66. A couple of sections had been deferred and we had not gone back to sections 1 through 15. Shall we proceed with section 67 onward and then go back and pick up the sections that have not been completed?

Mr. Gordon: Your review of the present status of the various sections we are dealing with in this bill is quite accurate. I concur that we should begin with sections 66 and 67 and move on. There might be a number of sections we are not prepared to deal with today.

At this time, I would also like the committee's concurrence--I hope a motion will not have to be passed--that this be a nonsmoking committee until this bill is completed. Is that all right with the other committee members?

Mr. Chairman: Do you mean that after that, you do not care?

Mr. Gordon: The house will have been built and we will not have to worry about burning it down.

Mr. Chairman: It is up to the rest.

Mr. Gordon: I would appreciate it from the smokers.

Mr. Chairman: Are there any other comments before we begin? Mr. Reville, you had your hand up.

Mr. Reville: On a point of procedure, when we deal with section 68, which some might feel is an important section of the bill, will we also deal with schedule A which is referred to by clause 68(1)(b)? That would be an appropriate place to deal with it because it relates to the way the formula is designed. It strikes me that we should do section 68 and schedule A at the same time. Then, when we get to section 72 we should do schedule B.

Mr. Chairman: That seems logical to me.

Mr. Reville: That does not mean the committee will agree.

Mr. Chairman: No. Let us deal with the schedule A formula when we

get to section 68 shortly. We had completed to the end of section 66. Section 67 was previously carried. Section 68 was deferred.

On section 68:

Ms. E. J. Smith: I ask the indulgence of the committee for yet another technical amendment, one obviously required because the bill was not passed at the time originally anticipated. It is to bring the bill into technical agreement with the dates being used. As it read, the date for publication of the increase was August of the year preceding when it took effect. In fact, we are into November, which means we had a whole year when the bill did not apply. It is technical. It is asking for 30 days after the day this subsection comes into force. I will read it for you. I have first given the explanation.

Mr. Chairman: Ms. Smith moves that section 68 of the bill be amended by adding thereto the following subsection:

"(2a) Despite subsection 2, in respect of the residential complex cost index applicable for the year 1987, the minister shall calculate and publish the index in the Ontario Gazette not later than 30 days after the day this subsection comes into force."

We will leave that as having been read in and go back and start with subsection 68(1) because I believe there is an amendment there from Mr. Reville.

Mr. Reville: Yes, there is.

Mr. Chairman: Let us go back. I should have called for it first.

Ms. E. J. Smith: I am sorry I got ahead of myself there.

Mr. Chairman: It is all right. It is on the record now.

Mr. Reville: I have no objection to Ms. Smith's amendment. It is obviously a technical amendment that deals with the current year and needs to be done. My amendment, however, is not technical; I do not want the committee to think it is technical. It is highly untechnical and very substantive.

Mr. Chairman: Mr. Reville moves that subsection 68(1) of the bill be amended by substituting for the words "first day of January, 1987" in (a) and (b) the words "first day of January, 1988."

Mr. Reville: What has happened here is that I have replaced the digit "7" with the digit "8". It is a simple, forward-looking amendment. I have a speech that goes with it. It is a long speech. The reason it is a long speech is that virtually all the tenant deputations that came before us made the speech about the government's promise of four per cent and about the concern they had that they would not be able to stay in their homes if they got more than a four per cent increase. There was also no evidence I ever heard that indicated landlords needed anything more than four per cent.

I got a few notes from people in Ontario in respect of this matter. I have come with my supporting documentation. It is here. I am just letting you know about it so that you are aware that the consensus the government talked

about in respect of the bill is a consensus that is not shared by a large number of people in Ontario, many of whom wanted to let us know that.

In this box I have a lot of little cards that I am sure you have all seen. They are little petition cards addressed to me and they say to keep the ceiling on rent increases to four per cent. For obvious reasons, I have had them broken down by riding. I have counted them. I will in due course present them to the Lieutenant Governor and the Legislative Assembly, but I think that where they mean the most is right here at this committee because clearly these are the issues we have been struggling with day after day.

15:50

I point out that this is the third-month anniversary since we began to deal with this bill. It was August 19 when we began. You will not be surprised to know that I got 1,348 petition cards from Scarborough West, so Mr. Johnston will clearly retain that seat. You may have found out that last week when I went to London I received a large number of petition cards from London Centre and London South. The total now is 1,294 and I am sure Ms. Smith and Mr. Peterson will be interested in these numbers. Just so you will be aware of the breadth of the concern: Ancaster, Blenheim, Brantford, Hamilton, London, North Bay, Oshawa, Ottawa, Peterborough, Stoney Creek, Tecumseh, Thunder Bay, Tilbury--I apologize; I do not know where Tilbury is.

Mr. Gordon: It is south of Chatham.

Mr. Chairman: Is Shining Tree on your list?

Mr. Reville: No, Shining Tree is not here. Toronto and the ridings of Beaches-Woodbine, Don Mills and Etobicoke. High Park-Swansea was one of the winners; Mr. Shymko will be unhappy about this. I got 505 from High Park-Swansea, so Mr. Shymko is in big trouble. Oakwood--

Mr. Pierce: By whose definition?

Mr. Reville: Just the voters. Riverdale--

Mr. Chairman: Why are you not unhappy, Mr. Pierce?

Mr. Pierce: I do not know why I am not unhappy.

Mr. Reville: I have everything.

Ms. E. J. Smith: Have you got Waterloo?

Mr. Pierce: How can one person be so happy about so many people who are unhappy?

Interjection: I do not think we can find a New Democrat in Waterloo to distribute these forms.

Mr. Epp: I will try to keep it that way, too.

Ms. E.J. Smith: I imagine that 100 per cent of the tenants in London South hope their rent stays at four per cent.

Mr. Reville: I think you are right, Ms. Smith.

Ms. E. J. Smith: Sad realities have to enter in.

Mr. Reville: I do not want you to interrupt this presentation. It will take longer. There are 111 different petitions from downtown Toronto which would be the current riding of St. George and part of St. Andrew-St. Patrick. This petition says, "A four per cent cap on rents, protection for all rental housing, policy for more affordable housing and a decent level of unit maintenance." There are 111 of those.

I have 152 of these; it is a different kind. These come from all over the place. There are two questions on this one. This says, "I think the ceiling on rent increases should be four per cent--yes; and "I think that landlords should have to pay back illegal rents--yes. The illegal rent question was resolved on Monday. Landlords do not have to pay them back, so that one lost but the four per cent part is still here.

Ms. Caplan: That is inaccurate. I ask the member to clarify. Since we are being televised, you do not want to suggest too much.

Mr. Reville: That is right. The landlord does not have to pay back any illegal rents that he collected before August 1, 1985, if he registered on time. Therefore, 10 years of illegal rents may not have to be paid back. We can clarify that matter seeing that we are on television.

I have 102 letters from that bastion of concern, 57 Charles St. West. You will remember the deputation. We have 102 letters here that regrettably say that they will campaign actively against both the Liberal and the New Democratic Parties. However, they have changed their view on that since they wrote these letters.

I have 13 personal letters that I answered at some length. I have a letter from Ed Broadbent forwarding a letter from Oshawa saying that they want it cut to four per cent and that perhaps the federal government should intervene.

On Monday and Tuesday I got 93 phone calls. They are all here. They are in response to the article in the Sunday Toronto Star written by Ms. Dixon. Some people have sent in letters in respect to that which have already arrived. It is an amazing postal system that we have. They come from all over Ontario. It is quite amazing the outreach that the Toronto Star seems to have--Owen Sound, Trenton, mainly from Toronto, Guelph; these are the letters.

Mr. Gordon: Read some of them into the record.

Mr. Reville: I want to read a couple of things to you because when people sent in their petition cards they sometimes sent in a note or a letter. Some of these were very moving. Many of the people who called on Monday and Tuesday wept on the phone. Members of my staff have probably been more upset than I have seen them. You all know from doing your constituency work that you hear a lot of tragedies over the telephone. In fact, we have heard a lot of tragedies.

This is from London, Ontario: "I am a widow and barely make it to pay my rent and buy groceries. Please keep the ceiling at four per cent."

This note says: "Thank God for your petition. I am a senior citizen."

Another says, "Keep your promise or do not count on our vote again,"

while yet another says, "People out of work or senior citizens cannot afford what is charged now."

This is from Scarborough: "This apartment was \$431 when I rented it in June 1980. As of today it is \$742 a month. Last year's rent hike was \$110. This year's increase was six per cent. On a widow and a senior this has proved quite a hardship. If there was not so much dilly-dallying by some members of those in government, many of those increases could have been avoided, so let us get on with the job, eh?"

Here is a letter from Ottawa: "I would like to thank you for the initiative you have taken with regard to Bill 51. Best wishes for success." A petition card is enclosed.

The tenants in 95 units at 6509 and 6521 Glen Erin Drive, Mississauga, are senior citizens who fear they will not be able to afford their apartments after Bill 51. The buildings are in Mr. Offer's riding. The tenants say he campaigned on four per cent in their buildings last spring.

This is some of the material I have received in support of the campaign to keep the rental increase at four per cent. My motion is before you.

Mr. Chairman: Mr. Reville has moved his motion. Does anyone else want to comment on his amendment?

Ms. Caplan: I have some concern about the terminology Mr. Reville has used. In speaking to some tenants, I have learned that the terms "ceiling," "limit" and "cap" suggest a legislated maximum under this legislation or a legislated maximum under the previous legislation. It is important to clarify there has been a guideline in place for some years and that what is proposed in this legislation is a formula for a guideline; that is, the maximum allowable limit under the legislation as a guideline.

However, as Mr. Reville presented in one of his very moving petitions, the previous guideline was not always received by tenants. In fact, at the Residential Tenancy Commission the average over the province last year was almost 10 per cent. Before that, it was above 10 per cent. The tenants found the Residential Tenancy Commission review process difficult and intimidating and did not understand there was not a ceiling, a limit or a cap.

If we were to support this amendment, we would be supporting the exact opposite effect of what Mr. Reville is encouraging by his thoughtful amendment and position; that is, the extension of rent review to all the units in Ontario would encourage a massive application through the rent review hearing process. We would have less tenant protection than we have now. When there is a guideline in place that people will understand and comprehend and that will have in place the kinds of protection on maintenance to ensure that they are getting their money's worth and that they have a decent place to live, we hope that the deterioration, the erosion of the past number of years will stop.

16:00

All your amendment would do would be to create administrative delays; it would not provide the ceiling, limit or cap that you are proposing. What we are discussing is what the guideline should be and how that guideline should be achieved. We have heard the recommendation from the Rent Review Advisory Committee. Your amendment goes totally contrary to the RRAC recommendation--

Mr. Reville: Wait for the rest of it, Ms. Caplan. I am replacing your guideline with the four per cent guideline. I understand that your guideline is about 5.2 per cent.

Ms. Caplan: I am glad you have used the term "guideline" now instead of the term "limit" or "cap," because I think that clarifies it. The formula for the guideline proposed in the bill is fundamental to the agreement with RRAC, and that is the reason we cannot support any amendment to that.

Ms. E. J. Smith: I just wanted to say to Mr. Reville that I do share his concern that, for many people, rent costs are higher than we all would like to see. I remember that, when I got married, the figure used to be 20 to 25 per cent of income. In theory now we seem to talk about 30 per cent, but I know that a lot of people pay much more.

I have only two comments. As I think of London South, which is my riding, a lot of the apartments are actually not under rent control at all, and I think that is probably true of many ridings. I cannot say whether some of those letters came from people who were in nonrent-controlled buildings, because a lot of the apartment buildings are--

Mr. Reville: I imagine some of them did.

Ms. E. J. Smith: Yes. A lot of the apartment buildings are post-1976. I think you have to look at the good this bill is doing. It is distributing the burden evenly. You might say that everybody is being treated the same.

My only other comment is that I would like to remind you, as we tried to remind tenants who came to our meetings, that this is only part of an assured housing policy for Ontario. We recognize that something has to be done to look at these problems, and we are doing a tremendous number of building projects in support and so on. This cannot be the solution to all of the housing problem. Part of this is to get more apartments built, and we recognize that as Ontario has a problem for many of its less fortunate people, we cannot ask the landlords individually to shoulder the responsibility of resolving that problem. We see it as a broader problem.

Mr. Reville: Mr. Chairman, I would like another word, please.

Mr. Chairman: Yes, Mr. Reville.

Mr. Reville: When I was speaking, I was trying to limit my remarks to one aspect of the bill. The bill has many aspects, and my friends in the government have added some aspects to the discussion that I would like to respond to.

There is no question that bringing 125,000 more units under rent control is progress that my party has long sought. In fact, I remind the committee that it was the combined opposition of the Conservatives and the Liberals that prevented that from happening in the beginning, when rent control was instituted. We should not forget the history of rent control. When there has been an opportunity to strengthen it, Progressive Conservatives and Liberals have combined to make sure it was not strengthened. This is rectifying a historical injustice, and I am pleased to see that.

Let me also point out that, in the average year, between 50,000 and 100,000 units are before the Residential Tenancy Commission. Staff will nod in

concurrence, or perhaps they will not nod in concurrence, but the statistics are there. Under the old system, between five and 10 per cent of all units in Ontario were dealt with by way of rent review orders, which means that between 90 per cent and 95 per cent experienced only a guideline increase. Under Bill 51 two things will happen. The guideline increase will be higher--it will be 5.2 per cent instead of four per cent--and there will be such a land office business of rent review that Mr. Peters's people will be spinning around.

Consider the provisions of the bill. The concept of chronically depressed rents is a whole new feature. About 20,000 units that may not have been to rent review before will be covered by it. I suspect that the landlord of virtually every new building will want to go to rent review to establish the base rent under rent review and to pick up any of the sections of rent review offered in later sections of this bill. My sense is that while the rent review process will be much less formal, there will be a ton of rent review activity. There may be so many appeals that we get backlogged into the next decade. More and more tenants will experience the delights of rent review than has been the practice in the past.

It is legitimate to comment on those buildings that have not previously been covered by rent review and where indeed people were getting incredible increases. I spoke to a man who had a 49 per cent increase in 12 months and one day--two increases, back to back, 49 per cent. Obviously, a tenant in that situation is desperate to be covered by rent review. I regret that many think that being covered by rent review will protect them from high increases. That is not so.

Under the right circumstances--or the wrong circumstances, from the tenant's viewpoint--it is still possible to get a very high rent review award, although it will have to be proved through the process and the tenants will have access, as will the landlords, to the appeal process. Let us not make any mistake about that. A landlord who can demonstrate economic loss is going to get an additional increase under this bill, which is a new idea. That is going to affect a bunch of tenants.

I do not have any more to say, because I do not want to discuss the whole bill. I want to put my four per cent motion in the context that was broadened by my friends on the government side.

Mr. Chairman: The committee has before it Mr. Reville's first amendment to subsection 68(1), which includes clauses (a) and (b). All those in favour of Mr. Reville's amendment to subsection 68(1) please so indicate.

Mr. Reville: Be ready to break a tie, Mr. Chairman.

Motion negated.

Mr. Chairman: Shall subsection 68(1) as in the bill carry?

Mr. Reville: I would like a recorded vote. I will withdraw my second amendment, which changes the date to August 1, 1987. It is obvious that the government is not interested in the accord.

The committee divided on whether subsection 68(1) should stand as part of the bill, which was agreed to on the following vote:

Ayes

Caplan, Cordiano, Epp, Gordon, Pierce, Smith, F. J., Stevenson.

Nays

Morin-Strom, Reville.

Ayes 7; nays 2.

Mr. Chairman: I declare subsection 68(1) as is in the bill carried.

Ms. Smith has moved an amendment to subsection 68(2). Do you have any further comment on that amendment?

16:10

Ms. E. J. Smith: My amendment is subsection 68(2a).

Mr. Chairman: I am sorry. It is a new subsection following subsection 68(2). Is there any any comment on subsection 68(2)? Shall subsection 68(2) carry? Carried.

Subsection 68(2a) is the amendment Ms. Smith is proposing to add to the bill. Is there any further comment on that?

Mr. Gordon: I would like to have a little fuller explanation of the amendment.

Ms. E. J. Smith: It is impossible to publish the building operating cost index formula in August for this coming year because that time has already gone. Once the bill is proclaimed, we will publish it within 30 days for it to be effective for that one year.

Mr. Pierce: Why do you we need subsection 68(2) if you are going to replace it with subsection 68(2a)?

Ms. E. J. Smith: Subsection 68(2) is for the other years. Ordinarily it will be published in August. It will give people an opportunity to know whether they want to appeal, because they then have to give 90 days' notice. It brings it into effect for them so that they can appeal in time.

Mr. Chairman: Is the committee ready for the question? All those in favour of Ms. Smith's amendment, which adds subsection 68(2a) to the bill, please so indicate. Carried.

Are there any comments on subsection 68(3)?

Mr. Reville: I would like to vote against that section.

Mr. Chairman: There are two ways of doing the votes. One is by numbers and the other is to have the names recorded.

Mr. Reville: I do not need a recorded vote. I just want to say no to this section.

Mr. Chairman: All those in favour of subsection 68(3) as it is in the bill, please so indicate.

All those opposed?

Mr. Chairman: The subsection is carried.

Sections 69 and 70 were both carried in their entirety.

Mr. Reville: On a point of order, Mr. Chairman: We were going to deal with schedule A, to which I have an amendment.

Mr. Chairman: I am sorry. You are quite right. Before we leave section 68, we will deal with schedule A, which refers back to clause 68(1)(b).

Mr. Reville moves that schedule A of the bill be amended by striking out (a) and (b) and substituting therefor:

"(a) one per cent; or

"(b) one per cent plus 60 per cent of the percentage increase in the three-year moving average of the building operating cost index, rounded to the nearest one-tenth of one per cent."

Mr. Reville: Again, the amendment is simple. It has several features I would like to speak to. The first is that it continues the thrust in every respect of the formula advanced for our consideration by the government bills. In a situation in which the building operating cost index is zero, there is still a rent increase. It is not two per cent; it is one per cent. People should understand that the formula calls for a two per cent increase when inflation is negative. The explanation of why we need an increase when there is a decrease in inflation or flat inflation--although many of us do not anticipate that situation occurring often--has been given to us a number of times.

In the second respect, I remind you that the formula has three pieces and a feature. The feature is the three-year moving average, which has some advantages. I have maintained that. It has a multiplier and an adder. The multiplier is the two-thirds, or in my case 60 per cent, which is a little less than two-thirds. The adder is two per cent in the bill; it is one per cent in my amendment. The adder, it is adduced, is there to create something for a rainy day, for small capital expenditures, for some kind of--

Mr. Cordiano: Ongoing maintenance.

Mr. Reville: No, not ongoing maintenance; it was never discussed in that regard. It was a little incentive.

Mr. Cordiano: I certainly discussed it in that regard.

Mr. Reville: Yes, but you were incorrect.

Mr. Cordiano: I am glad you told me that.

Mr. Reville: Mr. Griesdorf was very clear when he explained the genius of the two per cent formula. I do not object to having a little more than what is necessary to meet inflationary costs, because there is always the unexpected and it does provide some incentive; but I could never understand the need for two per cent, given that opportunities exist, if more is needed, to go on to rent review and get it. There is no way to guarantee that one cent--one penny--of that two per cent is ever spent anywhere near that

building. The minister cannot guarantee it; neither can I. That two per cent could go right into some other investment of the landlord, and we could say nothing about it. That is why I reduced it from two per cent to one per cent.

The replacement of 66.6 per cent by 60 per cent requires a little more explanation. You will recall that the 66.6 per cent figure relates to the operating cost revenue ratio experienced in buildings. That operating cost ratio has been proved over many years' experience to be between 50 per cent and 70 per cent, and 66.6 per cent is clearly at the high end of that range. Anybody can see that the dead centre of that range is 60 per cent. I have chosen that because it means that nothing extra is built in that does not need to be there.

Under the formula I have suggested, no landlord in Ontario will be in a worse situation next year than the situation he is in this year. No tenant will have to pay more money than is necessary to get what the tenant has already paid for. The provisions in the bill that guarantee or that we hope will guarantee better maintenance are things that tenants have always paid for in the rent. Clearly, there is a problem with getting that, because we have had to create a whole system to make sure tenants get it. They should not have to pay more than their rent for that, and that is what the government formula does.

I have explained until I have almost collapsed, not only on this occasion but throughout this process as well, why I think the RCCI formula as suggested by the government is far too generous. I have come up with a RCCI formula that is identical in all its precepts but that replaces the adders and multipliers with numbers that are much more appropriate and fair.

I will not drone on, because it should be pretty clear and either you agree with me or you do not.

Ms. Caplan: This was fundamental to the RRAC agreement and was agreed to by the representatives on RRAC. It reflects tenant protection in times of high inflation and recognizes that in times of low inflation there should be an incentive to ensure that the building is maintained.

Mr. Reville: Mine would, too.

Ms. Caplan: Any change in this formula would have the effect of destroying the delicate balance or dynamic equilibrium that was achieved on that committee by individuals there in good faith, each from a distinct and different point of view. Those members came together and brought the minister this formula as part of their agreement--indeed, as the cornerstone of their agreement. If we tampered with it, we would be breaking faith with the RRAC committee, which laboured so hard and so long to bring forward the agreement. Therefore, Mr. Chairman, I will not and the government will not be supporting the amendment.

16:20

Mr. Reville: Mr. Chairman, this should be a recorded vote when you get to it.

Mr. Morin-Strom: It is too bad that on an issue such as this we are ending up with a rent increase significantly higher than the one on which we have a written agreement, signed, sealed and delivered by the Premier (Mr. Peterson). The Liberals on this committee will not stand up for the written

word of their own Premier, which guaranteed four per cent rental increases to the tenants of this province.

Mr. Chairman: To involve more people in the action, the clerk is going to do the roll on this vote. This is on the amendment proposed by Mr. Reville.

The committee divided on Mr. Reville's amendment to schedule A, which was negatived on the following vote:

Ayes

Morin-Strom, Reville.

Nays

Caplan, Cordiano, Epp, Gordon, Pierce, F.J. Smith, Stevenson.

Ayes 2; nays 7.

Schedule A agreed to.

Mr. Chairman: That completes section 68. Sections 69 and 70 were both carried previously.

Not all of section 71 was carried. Subsections 1 through 5 were carried; subsection 71(6) was deferred. However, there is an amendment. How do we do this? Subsection 71(5) was already carried.

Mr. Reville: There may have been a bit of confusion. Hang on a second. I have a few pieces of paper to go through. I have amendments to subsections 71(5) and (6).

Mr. Chairman: I believe subsection 71(5) was carried. Do I have the unanimous consent of the committee to reopen subsection 71(5)?

Mr. Reville: Actually, I am going to withdraw my amendment on subsection 71(5). That might save time. I think I know what the result will be, anyway.

Mr. Chairman: Okay. Subsection 71(5) is carried, as it was the other day.

Mr. Reville: Yes.

Mr. Chairman: Let us move to subsection 71(6). There is a proposed amendment to that as well.

Mr. Chairman: Mr. Reville moves that subsection 71(6) of the bill be amended by adding at the end of the subsection the words "and the minister may impose conditions for such extensions, including where the extensions are required by the landlord's deliberate default or negligence, that the first effective date of increase be delayed."

Mr. Reville: The intent of this amendment is to deal with those circumstances where the minister will grant an extension of time but try to discourage deliberate tardiness in filing important documents, which creates a situation in which the tenants have less time to respond to the application of

the landlord before their first effective rent date. It allows the minister to determine whether those conditions are as a result of malfeasance or misfeasance. The minister can say: "Wait a minute. For this reason we are going to delay the effective date of increase." It strikes me that those would be conditions where the minister would probably delay the date in any event, but this is for greater specificity.

Ms. Caplan: I believe this amendment is well intentioned.

Mr. Reville: It is; they all are.

Ms. Caplan: Subsection 18(5) already permits the minister the addition of extensions. It is our belief it does not have to be restated in section 71.

Further, in our opinion the wording may actually limit the minister's powers because of the use of the term "deliberate" in this context. It might interfere with those powers as stated in subsection 18(5) and not do what the well-intentioned motion is intended to do. For that reason, since we believe the power is already there and that this would be redundant and perhaps even limit the powers, we will not be supporting the amendment.

Mr. Reville: It did say "including", which of course just creates incredible latitude for the minister, who, I am sure, would exercise it wisely. Be that as it may, why do we not have the question?

Mr. Chairman: The question has been called. You have heard the amendment as proposed by Mr. Reville. Do you wish a recorded vote?

Mr. Reville: No.

Mr. Chairman: All those in favour of Mr. Reville's amendment indicate.

All those opposed?

Motion negatived.

Mr. Chairman: Shall subsection 71(6) as it is in the bill carry? Carried.

Section 71, as amended, agreed to.

On section 72:

Mr. Chairman: Section 72 was deferred. There are clauses 72(a) through (j). I have an amendment to clause 72(b).

Shall clause 72(a) carry? Carried.

Mr. Chairman: There is an amendment to clause 72(b) by Mr. Reville.

Mr. Reville: Yes. They call this the Laverty amendment. Not because Dr. Laverty had anything to do with the drafting of this amendment but because he and I often discuss extraordinary operating costs in Bill 51 and how many times the term appears in the bill. I am seeking to win my bet by deleting all those times it appears in the bill, so I have two amendments here and one amendment to come, when Mr. Gordon moves his definition of extraordinary

operating costs. My amendment strikes out the words "extraordinary operating costs."

Mr. Chairman: Mr. Reville moves that clause 72(b) of this bill be struck out and the following substituted therefor:

"(b) the findings of the minister concerning financing costs and capital expenditures that the landlord has experienced or will experience in respect of the residential complex."

Mr. Reville: I never heard, and if I did hear, I did not believe and was not convinced by any arguments that supported this notion of extraordinary operating costs. Therefore, on the advice of a large proportion of those tenant advocates you think the government would be interested in listening to, I suggest we get rid of this notion of extraordinary operating costs and provide some much-needed tenant protection.

Mr. Chairman: Are there any comments?

Ms. Caplan: The only comment is that the reason we will not be supporting this is that upon justification there are some costs that will be seen to be extraordinary, because they are not reflected in the overall guideline. That is something we believe is fair. Since this bill is premised on the basis of fairness to both sides, the removal of those words as stated in the amendment would not reflect fairness.

Mr. Chairman: Are there any other comments on Mr. Reville's amendment to clause 72(b)? All those in favour of the amendment please indicate.

All those opposed?

Motion negatived.

Mr. Chairman: All those in favour of clause 72(b) as it is in the bill? Carried.

Mr. Chairman: Are there are comments on clause 72(c)? All those in favour? Carried.

Clauses 72(d) to 72(g) carried.

Mr. Reville: I have an amendment to propose to clause 72(h).

Mr. Chairman: Mr. Reville moves that clause 72(h) be amended by striking out the words after "Residential Tenancies Act" in lines 4 and 5.

Mr. Reville: I have to find out why I wanted to do that.

Mr. Chairman: Perhaps you would make reference to this act.

Mr. Reville: The explanation is that there is no reason to draw the line at that point when the practice of the Residential Tenancy Commission has been to remove such financing costs no longer borne.

Mr. Chairman: Everyone looks convinced.

16:30

Ms. Caplan: There was great discussion during the previous clause-by-clause review at this committee. We fundamentally disagreed with the analysis provided by my colleague.

Mr. Chairman: Everybody looks unconvinced. Is there any further comment on Mr. Reville's amendment?

Mr. Reville: I point out that Professor Smith had problems with this section as well.

Mr. Chairman: What about Professor Patterson.

Mr. Reville: You are thinking about Dr. Patterson.

Ms. Caplan: What about Dr. Laverty?

Mr. Reville: Dr. Laverty has no problems with anything unless it is not within his knowledge base. Then he has no comment.

Mr. Chairman: All those in favour of Mr. Reville's amendment to clause 72(h) please indicate.

Those opposed?

Motion negatived.

Mr. Chairman: All those in favour of clause 72(h) as it is in the bill please indicate. Carried.

Mr. Reville: Wait until I turn Dr. Morin-Strom loose on you. Then you will be in trouble.

Mr. Chairman: Are there any comments on clause 72(i)? Shall it carry? Carried.

Mr. Chairman: Clause 72(j)? Carried.

Section 72 agreed to.

On section 73:

Mr. Chairman: Section 73 was deferred. Are there any comments?

Ms. E. J. Smith: I have a government amendment. Will you distribute it?

Mr. Chairman: The amendment has been distributed.

Ms. E. J. Smith moves that section 73 of the bill be struck out and the following substituted therefor:

"73(1) Where, on an application made by a landlord under section 71, it is found by the minister that the grounds that justify an increase in rent by more than the amount permitted by section 68,

"(a) are only one or more of the financing costs, financial loss or economic loss; or

"(b) do not include any amount for capital expenditures,

"that the landlord has experienced or will experience in respect of the residential complex, the minister shall apply the percentage determined under clause 68(1)(a) or (b), whichever is applicable, instead of the operating cost allowance determined under clause 72(a).

"(2) Notwithstanding subsection (1), where on an application made by a landlord under section 71, a capital expenditure is found by the minister to be of a continuing nature within the meaning of the regulations made under this act, the minister, in respect of any subsequent application made by the landlord under section 71 in which the capital expenditure is found to be continuing, shall apply the percentage determined under clause 68(1)(a) or (b) whichever is applicable, instead of the operating cost allowance determined under clause 72(a)."

Mr. Chairman: Are there any comments on the section? Do you wish to speak to it?

Ms. E. J. Smith: This section is attempting to keep a balance, along with other amendments that will be in the bill, so that the landlords and tenants are equally penalized or rewarded, whatever you want to say. It must be read in conjunction with other changes. It is an effort to maintain balance.

Mr. Chairman: We have heard Ms. Smith's amendment.

Mr. Reville: Yes. Can I send in a proxy negative vote while I have my cigarette?

Ms. E. J. Smith: We will accept your vote from there.

Mr. Reville: I note this is amendment 113.

Mr. Chairman: All those in favour of Ms. Smith's motion to amend section 73 please indicate.

Opposed? Carried.

Section 73, as amended, agreed to.

On section 74:

Mr. Chairman: Section 74 was deferred as well. Are there any comments on section 74? Shall section 74 carry?

Mr. Reville: The reason I held that was I want to object to the amended portion with respect to chronically depressed rent, which is a concept the New Democratic Party does not recognize. We will just vote against that.

Mr. Chairman: All those in favour section 74 as in the bill, please indicate. All those opposed?

Section 74 agreed to.

On section 75:

Mr. Chairman: Section 75 was deferred as well. Are there any comments on section 75? There are some amendments proposed to this by Mr. Reville. Mr. Gordon has one as well. Let me see which was first.

Mr. Reville: I am going to withdraw my amendment, having been convinced, after a lot of reflection, that the government's intentions with respect to the landlord's own labour are honourable.

Mr. Chairman: Are you withdrawing both amendments?

Mr. Reville: Clause 75(1)(c).

Mr. Chairman: But not subsection 75(2) at this point.

Mr. Reville: No.

Mr. Chairman: We will deal first with clauses 75(1)(a), (b) and (c). Mr. Reville has withdrawn his amendment. Mr. Gordon, do you have an amendment to clause 75(1)(c)?

Mr. Gordon moves that clause 75(1)(c) of the bill be amended by inserting after "labour" in the first line "to be determined as a prescribed percentage of the average going rate for work of the same nature charged by persons in the business of doing such work in the same market area."

Mr. Gordon: The reason for this is that I believe the bill's current clause (c) says, "allow the value of the landlord's own labour, if any, in carrying out the work involved in the capital expenditure." This refers to the fact that where a landlord performs labour involved in the capital expenditure, there should be some recognition of his efforts and a dollar value placed on what he does. While the ministry acknowledges that there is a value to the landlord's own labour, it does not indicate how it is going to go about determining that value.

The purpose of our motion is to indicate that in regulation--obviously, this is going to be done in regulation, but we want it in the bill--there should be a prescribed percentage of the average going rate for work of the same nature charged by persons in the business of doing such work in the same market area.

I expect this would pertain particularly to the smaller landlord, because the large landlord obviously hires someone. He has tradespeople of his own to do these kinds of things, but the small landlord does not. Many of the smaller landlords become quite proficient and expert at performing all kinds of duties, whether they involve plumbing, carpentry, electrical work or replacing windows--any number of things. They even do their own bricklaying and perhaps their own paving. They put in new concrete steps or walkways. That should be recognized.

Mind you, no one would expect them to be paid at the rate of a carpenter, an electrician or a plumber. That is not being realistic. However, there should be some means used to assess exactly the value of what these entrepreneurs are doing.

I am not as yet assured that the minister or the ministry has recognized this, and that is why I am moving this amendment.

As well, I have to inform you and the committee that I am not pleased that one request I made has not been answered, that we would see actual quality survey types of books that were referred to by ministry staff at one time at this table, that we would have some examples to peruse and the time to go over them. I do not think the time to go over them is necessarily when you are putting forward the amendment.

This kind of information should have been presented to the committee. If it took an hour or two or three to convince me or others that we have a means of determining the value of work, it would allay a lot of our fears that the small landlord in Ontario would be left receiving much less than the value of his work. That is why I have put this forward. I hope members of the committee will support it.

16:40

Mr. Chairman: Are there any further comments on clause 75(1)(c), an amendment by Mr. Gordon?

Ms. Caplan: While I think the amendment is well intentioned, the entire thrust of the bill and the government's position is to ensure fairness on both sides. There would be a concern from tenants that work would be overvalued, as there would be a concern from landlords that work would be undervalued. That is why we believe this should be dealt with by regulation, as opposed to being put in the bill.

By specifying an average and going around to different centres, there might be some confusion created by having this in the bill. Having it in a regulation would provide the acceptability required to ensure balance and fairness to both sides. It could be adjusted as required. Therefore, we will not support the amendment, although we are not suggesting it is not well intentioned. It is the government's intention to ensure that kind of fair evaluation, so neither side feels advantaged or disadvantaged.

Mr. Chairman: Do you have anything else on your amendment, Mr. Gordon?

Mr. Gordon: I welcome Mrs. Caplan's explanation of why the government is unable to support the amendment, but I must reiterate our position. While we see that great strides have been made for tenants in Ontario with certain aspects of this bill, we are not so sure about other aspects.

The larger landlord or developer has certainly had his or her concerns dealt with, first, at the level of the RRAC and, second, when the bill was framed and the clauses were put in place. However, we have heard from many small landlords who do not feel that their views have been so clearly heard or acknowledged.

You would be going a long way--I will not say "a long way," because there are many other things that could be done--but you would be taking a very concrete first step if you were to accept this amendment, because it does not specify a percentage. It says it would be "a prescribed percentage of the average going rate for work of the same nature charged by persons in the business of doing such work in the same market area."

In recalling what the member opposite said, I think she was very clear. I do not think I misunderstood. If I did, I hope she will correct me. She

alluded to the fact that she did not really want to establish a prescribed percentage--

Ms. Caplan: Formula.

Mr. Gordon: --or a formula, because conditions differ from one area of the province to another. I do not think this does that. It leaves it to the government to determine in regulation. At the same time, we ought to be careful in talking about this matter. I know you did not mean to imply that, for example, in eastern Ontario a small landlord who does work might be less experienced than a landlord in your riding in Metropolitan Toronto or in the north. I know you did not mean that, and you might want to correct the record.

Ms. Caplan: I know your interpretation is not in any way to suggest that type of value. We recognize that market conditions differ around the province. It is reflected in your own motion's reference to market area. That means that market area will have to be defined. It will lead to the type of complex formula that I and the government feel would be best dealt with by regulation to allow that flexibility for change. If we were to support the amendment and have it go into the bill at this time and we found it was as complex as we anticipated, it would require opening the bill to make an amendment so that the regulations would work.

Having that flexibility in the regulation will allow the ministry staff to ensure that balance, to ensure that neither overvaluation nor undervaluation occurs. It would be best dealt with by regulation rather than by having to have something in the bill that is so unclear about its actual meaning, although I understand the intent.

Mr. Stevenson: It seems to me that Mrs. Caplan has just given a very clear explanation of why the amendment should pass. In fact, I am not sure how I could have picked words any better to support the amendment. Therefore, I suggest she do exactly what she is saying and support the amendment. It is a question of whether you want a certain degree of precision or the marshmallow judgement of the minister to apply here.

Hon. Mr. Curling: I beg your pardon?

Mr. Chairman: You have heard the amendment.

Mr. Gordon: I know you want some debate on this point because--

Mr. Chairman: As long as it is not repetitious.

Mr. Gordon: I have a sense that there should be a little more discretion in this matter.

Mr. Chairman: Will you be as generous as Mr. Stevenson will?

Mr. Gordon: With you, certainly, Mr. Chairman, as I always am.

I want to apologize, Mrs. Caplan, for inadvertently getting my notes to Mr. Stevenson mixed up with yours so that you read the answer I wanted him to give. We understand that.

Mr. Chairman: Thank you, Mr. Gordon. Let us deal with clause 75(1)(a). Shall clause 75(1)(a) carry? Carried. Shall clause 75(1)(b) carry? Carried. Shall the amendment to clause 75(1)(c), as moved by Mr. Gordon, carry?

Motion negatived.

Mr. Chairman: Shall clause 75(1)(c) as printed in the bill carry?
Carried.

Mr. Reville: I have a brand new amendment on subsection 75(2) that I would like distributed. My voice is wearing out so this one is shorter and easier to understand.

Mr. Chairman: Mr. Reville moved that subsection 75(2) of the bill be amended by striking out "80 per cent of" in the eighth line.

Mr. Reville: Speaking to that matter--

Mr. Chairman: Yes, please do.

Mr. Reville: Three or four features of the bill were addressed at great length by tenant groups when they appeared before us, and this is one of them. The amendment is odd because it is a subsection of another section.

It is that vexing question of cost no longer borne. Tenants' group after tenants' group could not understand for the life of them why, once a cost was no longer borne, that entire cost was not removed from the rent. The figure of 80 per cent seemed to be some tradeoff that did not have any justification. It seems to me that if a tenant has paid for capital improvement, then the tenant should not have to keep paying. I move this simple amendment to change 80 per cent to 100 per cent.

16:50

Ms. Caplan: The government will support this amendment. We have been swayed by the argument and feel the amendment is deserving of support.

Mr. Gordon: Since the government has been swayed by the argument made before the committee by Mr. Reville, I would like to explain why we will support the amendment as well. We see this as starting in August 1985, not believing in retroactivity but recognizing that there is a certain justice here that is essential. People should not have to pay for the same roof over and over again. Thus, we will support this amendment.

Mr. Chairman: All those in favour of the amendment to subsection 75(2), as proposed by Mr. Reville, please indicate. Carried.

Mr. Reville further moves that section 75 of the bill be amended by adding thereto subsection 75(3) as follows:

"(3) Where the amortization period in respect of a capital expenditure allowed under this act or the Residential Tenancies Act has been completed, the minister shall, on his own motion, require that the rent increase following the expiry of the amortization period be reduced by the amount allowed in respect of the capital expenditure."

Mr. Reville: This fairly dramatic portion says that if there has been a capital expenditure and tenants have paid for it, the minister will figure out the end of the amortization period and order that the next rent increase be reduced by the amount by which it had been increased in the past to reflect the capital expenditure.

That is an interesting and delightful job for the minister. I can see him sending out notices saying: "Dear Tenant: Your rent will go down this year. Signed, Mr. Curling." Mr. Curling could probably be Minister of Housing for just as long as ever he wanted if this section were to pass. It also strikes me as being a very logical motion. Given that the expenditure has been cleared off by the tenants' rent, the minister should ensure that it no longer appears in the rent.

For those who worry about these things, I should point out that the proposal is somewhat contrary to the rest of section 75 and would require the lawyers to go back and touch up the odd bit, but lawyers are really good at that and I am sure they could get advice.

Mr. Chairman: Also, there is no guarantee it will pass.

Mr. Reville: I have a suspicion this may not pass.

Ms. Caplan: I will not go on at any length, but it is important to note that under the proposed amendment you could have two capital cost awards if the amortized item did not last the anticipated time of the amortization. I know this was discussed at RRAC. The recommendation from RRAC was that the expected end of the useful lifetime was a more appropriate amortization period. That is the one this reflects.

I would like to point out as well that if we were to go with this amendment, the rent registry would have to include all these adjustments.

Mr. Reville: Good idea.

Ms. Caplan: Not only would that be a great administrative burden; it would also not add to the tenants' protection because, as I said at the beginning, you could end up with two costs occurring at the same time, which might be quite confusing to some. The RRAC recommendation is the most appropriate one and, therefore, we will not support this amendment.

Mr. Chairman: All those in favour of Mr. Reville's amendment, please indicate. All those opposed?

Motion negated.

Section 75, as amended, agreed to.

On section 76:

Mr. Chairman: I do not have an amendment to section 76, but it was stood down the last time we went through the bill.

Mr. Reville: I have no objection to section 76.

Section 76 agreed to.

On section 77:

Mr. Chairman: Section 77 was deferred, and there are some proposed amendments. There is one government amendment and two from Mr. Reville.

Ms. E. J. Smith: This is Mr. Epp's amendment and he just stepped out. However, we will proceed.

Mr. Reville: Would you rather have the Reville amendment then?

Mr. Chairman: Let us deal with them by subsection. There is one for clauses 77(1)(a) and 77(1)(b).

Ms. E. J. Smith: Was this read in?

Mr. Chairman: No.

Ms. E. J. Smith moves, on behalf of Mr. Epp, that clauses 77(1)(a) and 77(1)(b) of the bill be amended by striking out "1st day of January, 1987," in the first line and inserting in lieu thereof in each instance, "31st day of December, 1986."

Ms. E. J. Smith: Here comes Mr. Epp. He can explain his housekeeping.

Mr. Epp: Are we there already?

Ms. E. J. Smith: It is a fairly simple thing.

Mr. Epp: Has the amendment been read in?

Ms. E. J. Smith: Yes.

Mr. Epp: Thanks very much. The reason for this amendment is quite obvious. Rather than making it the first day of the new year, since we are trying to finish off a year, we would finish off the year in December 31 rather than on January 1. That is essentially the purpose of it.

Mr. Reville: Carried.

Mr. Epp: Thank you, Mr. Reville. I appreciate your support.

Mr. Chairman: You silver-tongued devil; you convinced him before you even finished.

Mr. Epp: He was afraid I was going to buy it back, and I was not going to do that.

Mr. Chairman: Are there any other amendments to subsection 77(1)?

Mr. Reville: I have an amendment there.

Ms. E. J. Smith: There is one in the printed amendments.

Mr. Chairman: Let us deal with Mr. Epp's amendment. Shall Mr. Epp's amendment to clauses 77(1)(a) and 77(1)(b) carry? Carried.

Mr. Reville has an amendment to subsection 77(1), which will deal with the subsection as amended by Mr. Epp.

Mr. Reville moves that subsection 77(1), as amended by Mr. Epp, be further amended by striking out the number "10" in clause 77(1)(a) and substituting therefor the number "8," and by deleting in clause 77(1)(b) the words "plus one percentage point."

Mr. Reville: This reduces the rate of return, folks. This has been supported by umpteen tenants' groups that thought this should not be here at

all. As it seems clear it is going to be here, I thought we might as well try to minimize the damage; thus, I have suggested this damage-control amendment. I will not speak to it further. You have already heard arguments in respect of this at some length.

Ms. Caplan: Throughout these hearings, one series of questions was asked repeatedly of the industry representatives and the landlords who appeared. Those questions were: "Would you build? Will there be any supply? Would this give you the profit to build?"

Mr. Reville: They said no.

Ms. Caplan: We heard them say yes.

Mr. Reville: Some said yes.

Ms. E. J. Smith: One who said yes is present.

Mr. Reville: He is very agreeable. He would say yes to anything.

17:00

Ms. Caplan: I believe the effect of this amendment will be to end any possibility of having any supply created as a result of the initiatives taken by the Rent Review Advisory Committee on this bill. We cannot support it because of the tremendous need for supply. My colleague on the left believes that the government should be building exclusively. That would be the result if we passed this amendment. Only government would be building.

Mr. Reville: Oh, you have done it now.

Mr. Chairman: I think you have teased the bears.

Mr. Reville: As a veteran of North York council, Ms. Caplan should know what happens when you tease a bear.

Ms. Caplan: It was just a little; sorry.

Mr. Reville: I am now going to pretend I am Mr. Yuill.

Ms. Caplan: Mr. Yuill would never speak in support of government-built housing.

Mr. Reville: No, indeed he would not. When irritated, Mr. Yuill speaks for a very long time.

Ms. Caplan: In the cause of peace, let me say the only thing that disturbs me about this amendment. In good faith with my colleague and without any jesting, I believe the effect would be that we would not see any private rental stock built. That is the reason we cannot support it.

Mr. Reville: I fear we are not going to see rental housing stock built even with these provisions. It is not because I believe the government should be the only builder in the world.

Ms. Caplan: I understand.

Mr. Reville: In respect of affordable housing, I believe the

government or a nonprofit agency are the only builders that will build. While the private sector will build, it will build high-end-of-market housing, be it rental, home ownership or condominium ownership. They cannot build housing that is affordable. Yesterday, the Attorney General (Mr. Scott) pointed out that the average income for a family of four in this most wealthy city is \$32,000 a year, which means that it can afford perhaps \$620 a month for rent. Mr. Sifton cannot build a unit for a family of four that would rent at \$620 and he would never tell you he could.

We have heard a lot from people such as Mr. Patterson who said my party advanced this curious notion of a market failure strategy. We do not have to advance that notion. It is clear that in today's market the private sector cannot build a unit that is affordable. Nobody thinks it can and no one has ever said it could. You just cannot do it. It is going to cost \$800 a month to put a one-bedroom unit on line and that implies a \$40,000-per-year income for one person.

I understand what Mrs. Caplan is saying, but I wish she would not say that I think the government should be the only builder. I think the private sector builds wonderful buildings. If I had enough money, I would move to Queen's Quay and live in one of those \$1-million condos. It would be a lovely view of the lake, but I do not have enough money.

Ms. Caplan: To clarify the point I would like to make, the initiatives taken by the minister in the nonprofit and social housing end have been significant.

Mr. Reville: And inadequate. I will be speaking about that tomorrow in the House, so get ready.

Ms. Caplan: I am not saying this will provide that kind of social housing. The minister has accepted that responsibility and is showing great initiative in that area. There is a place for the private sector and the industry in the market, which we have to find.

Mr. Chairman: All right. You have heard the amendment as proposed by Mr. Reville. All those in favour of the amendment please indicate. All those opposed?

Motion negatived.

Mr. Chairman: Shall subsection 77(1), as amended, carry? Carried.

Mr. Reville has a proposed amendment on subsection 77(2).

Mr. Reville: I will come out of the corner again.

Mr. Chairman: Mr. Reville moves that clause 77(2)(b) of the bill be amended by striking out all the words after the word "year" in line 2 of sub-subclause 2(b)(ii)(B).

Mr. Reville: What this does, I am not quite sure. What I think it does is it gets rid of the three-times-the-guideline increase. You guys have a lot of nerve to say you could get the lesser of something or the highest of, and the highest of is three times the guideline; that is, 15.6 per cent, as I reckon it, for 1987. I wish that were written out in numbers, but seeing that it is not, I would like that deleted from the bill, which is what my amendment does. To provide that kind of increase in respect of the elimination of

economic and/or financial loss is just outrageous in my view, and if my amendment fails you will learn to your sorrow how tenants experience this. I am sorry; I did not mean to be rhetorical.

Mr. Chairman: As I understand the amendment, it would also eliminate sub-subclause 77(2)(b)(ii)(C). Am I correct in that?

Mr. Reville: That is the point of it. The word "and" disappears too. You cannot have an "and" if there is nothing more to say.

Mr. Chairman: You have heard the amendment. Are there any further comments on the amendment? If not, shall Mr. Reville's amendment carry? All those in favour? All those opposed?

Motion negated.

Mr. Chairman: Shall subsection 77(2) carry? All those in favour please indicate. All those opposed? Carried.

Section 77, as amended, agreed to.

On section 78:

Mr. Chairman: Section 78 was deferred and I do not have an amendment. It was deferred because there is a reference to costs no longer borne. Are there any comments?

Mr. Reville: I do not have any comments.

Section 78 agreed to.

On section 79:

Mr. Chairman: Are there amendments on section 79?

Mr. Reville: I have one.

Mr. Chairman: Yes, you do.

Mr. Reville: Instead of changing the bill, I am just adding something good to it.

Mr. Chairman: Mr. Reville moves that section 79 of the bill be amended by adding thereto the following subsection:

"(4) Apportionment of the total rent increase amongst the rental units in the residential complex shall not be implemented in the same year that any other increase in rents with the exception of the statutory increase allowed by section 68 but the minister may set the maximum rent that may be charged for a rental unit so that the landlord may achieve equalization of rents charged for similar rental units within the residential complexes to be implemented beginning the first year that no additional increases are allowed."

Before you speak to that, can we back up a bit? Do you still want to move your motion to your amendment to subsection 79(1)?

Mr. Reville: Perhaps it is out of order in my pile. Here it is. No. I will withdraw that just to be cheerful.

Mr. Chairman: All right. Then let us go through 79 working up towards the amendment as moved by Mr. Reville. Shall subsections 79(1) through (3), inclusive, carry? Carried.

We now are dealing with Mr. Reville's amendment, which is an addition, by adding subsection 4. Are there any comments.

Mr. Reville: Yes. I would like to make a brief comment. This section provides for equalization, apportionment and five per cent phasing. What I am trying to achieve in this is not to prevent a possibility that equalization should occur but to prevent it from occurring, at least initially in a year when other increases have been awarded so that we get this stacking effect. You get five per cent, then five per cent more and then five per cent more, which is a much bigger pile than if you get only five per cent. Do you see how that works? That is what this amendment does.

17:10

Ms. Caplan: I would like to point out that as we have heard before this committee, equalization does not in any way benefit the landlord.

Mr. Reville: It is not easy on the tenant who has it happen to him.

Ms. Caplan: It is a tenant-versus-tenant issue. We had many tenants come before us and talk about the fact that tenants in identical units, even on the same floor, were paying different rents. This amendment would perpetuate those tenant-versus-tenant inequities. Therefore we cannot support it.

Mr. Chairman: Are there any other comments on Mr. Reville's amendment? All those in favour of the amendment please indicate. All those opposed?

Motion negated.

Section 79, as amended, agreed to.

On section 80:

Mr. Chairman: We now are dealing with section 80, which was also deferred. I have a proposed amendment to it.

Mr. Reville: Is this section 80?

Mr. Chairman: Yes. We can deal with subsection 80(1) first. Shall subsection 80(1) carry?

Mr. Reville: Wait a minute. I am confused. Where are you now?

Mr. Chairman: On subsection 80(1). I have no proposed amendments. I am calling the question on it and then we will move to your proposed amendment.

All those in favour of subsection 80(1)? Carried.

Shall subsection 80(2) carry? Carried.

All right. We are finally up to you, Mr. Reville.

Mr. Reville: I have an amendment that is quite long.

Mr. Chairman: Mr. Reville moves that section 80 of the bill be amended by adding thereto the following:

"(2a) Where a landlord has applied for a rent increase greater than the amount permitted by section 68, the minister may, if his or her findings so justify, order a maximum rent that is less than the current maximum rent for that rental unit or less than the rent being charged for that rental unit.

"(2b) Where the minister makes an order under subsection 80(2a) which results in a rent decrease, the landlord may not increase the rent charged for the rental unit until a period of at least 12 months has elapsed since the date ordered by the minister as the earliest date at which that rent would take effect.

"(2c) The provisions of subsection 80(2a) and 80(2b) shall apply to part VI of this act in its entirety."

Mr. Reville: What this is all about is that it is sometimes possible that the effect of costs no longer borne in financing or capital expenditures creates a situation calling for a rent decrease. This would be particularly the case if inflation were to reduce further. The power to decrease rents is needed to cover cases of major changes in the services and facilities provided within the rental unit; for example, the transfer of responsibility to pay heat or Hydro.

If we adopt subsection 80(2a), then we need to adopt subsection 80(2b), because without it the landlord can immediately take a statutory increase as the change of rent cannot have been an increase. Section 67 provides that at least 12 months must elapse since the date of the previous rent increase. There you go. That is the explanation.

Mr. Chairman: Are there any other comments on Mr. Reville's proposed amendment?

All those in favour of Mr. Reville's amendment please indicate.

All those opposed?

Motion negatived.

Mr. Chairman: Shall subsections 80(3), (4) and (5) carry? Carried.

Section 80, as amended, agreed to.

On section 81:

Section 81 was deferred, and there is an amendment as well.

Mr. Reville: I think my concern in that regard has been dealt with. I withdraw my amendment.

Section 81, as amended, agreed to.

Mr. Chairman: Section 82 was deferred. I have an amendment to subsection 82(1).

Mr. Reville: In view of what has happened previously, my amendment deletes "extraordinary operating costs." I understand the view of the committee in this respect, so I will not place my amendment.

Section 82 agreed to.

Mr. Chairman: Sections 83, 84, 85, 86 and 87 were all carried previously. Section 88 was stood down.

Mr. Gordon: I would still like to see that stood down.

Mr. Chairman: We will leave section 88.

On section 89:

Mr. Chairman: Section 89 was also stood down previously. There is an amendment to subsection 89(1) by Mr. Reville.

Mr. Reville moves that subsection 89(1) of the bill be struck out and the following substituted therefor:

"An order made under this part may provide for the phasing in over more than one year, in the prescribed manner, of any amount that is included (as a component of the total permitted rent increase) for the purpose of,

"(a) eliminating a financial loss or an economic loss the landlord has experienced; or

"(b) achieving equalization of rents charged for rental units within a residential complex; or

"(c) raising the gross potential rent for a residential complex to the level where the rent is no longer a chronically depressed rent within the meaning of section 88; or

"(d) relieving the landlord from hardship under subsection 76(2) or (5); or

"(e) recovering financing cost increases that are subject to phasing in under the prescribed rules,

"and where provision is made for such phasing in, the minister shall specify in the order the phased-in amount for the initial year and the method of calculating the amount for any subsequent year or years in which the phased-in amount is applicable."

Mr. Reville: This makes these excuses disjunctive rather than conjunctive. It is "or" rather than "and." Obviously that prevents stacking. That is how we call it in legislative terms, disjunctive or conjunctive.

Mr. Chairman: I am pleased I was here to learn this.

Ms. Caplan: As I understand this, the reason we would not support

this is that this would force landlords and tenants back to rent review each year. We believe that part of the thrust of this bill, and fundamental to the RRAC agreement, is to streamline the process and make it less intimidating for both sides. This would have the exactly opposite effect and demand or force the return to rent review.

Mr. Reville: Ms. Caplan has inspired me to observe that my approach might mean that the tenants who come back each year are the same tenants rather than new tenants each year because the previous ones could not afford to stay because of stacking.

Mr. Chairman: All those in favour of the motion? All those opposed?

Motion negatived.

Section 89, as amended, agreed to.

On section 90:

Mr. Chairman: Section 90 was deferred. Mr. Reville has an amendment to subsection 90(1).

Mr. Reville: The government has one too.

Ms. E. J. Smith: We wish sections 90 and 91 stood down.

Mr. Chairman: Sections 90 and 91 remain deferred.

17:20

On section 92:

Mr. Chairman: That brings us to section 92. Shall subsection 92(1) carry? Carried.

All those in favour of subsection 92(2) please indicate. Opposed?
Carried.

On subsection 92(3) there is an amendment from Mr. Reville.

Mr. Reville moves that subsection 92(3) of the bill be amended by striking out the words after the word "under" in line 9 and substituting therefor "subsection 60(1)."

Mr. Reville: I think the intention of this section of the government bill is to deem increases to have taken effect retroactively in accordance with maximum increases permitted by law, and I am interested in allowing those increases to be disputed.

Ms. Caplan: I would like to clarify the reason for the government's position in not supporting the amendment. In many cases there were reasons the landlord did not take the legal increases permitted under the previous legislation. Some were rent concessions to retain good tenants. Others were, as we heard from many of the landlords, lower increases to poor or elderly tenants and, as we heard particularly from the people in the Sarnia area, a local recession and impacts on the market.

Since the bill will establish the difference between the legal rent and

the market rent, it is only fair and reasonable to have that same philosophy apply to the bill and to say that if you were entitled by law to an increase, you should not be penalized because, for other reasons, you did not take what was permitted. I have stated some of those reasons and I believe that is simply fair, since the guideline was in place and it could have been taken. We heard from representatives who were offering good reasons for not taking it.

Similarly, in the future, as these conditions apply, landlords will be able to not take the maximum increase allowed, and I believe in many cases will not, because the provision will be there--

Mr. Reville: They will take them later.

Ms. Caplan: --to allow them to do so at a future date, perhaps when the tenant moves. I believe tenants, particularly the elderly or those who have a good relationship with their landlord, will have additional protection because this principle is built into the bill. I view this as a tenant protection component in the bill, and that is the reason we will not be supporting the amendment.

Mr. Reville: As a final word, what this section also does is that, if a landlord does not like a tenant for some reason or other, he can walk the rent up to the maximum legal rent; it is perfectly legal. It could be 20 per cent or 30 per cent, and the tenant would be economically evicted.

That could happen under this section, because you can have years in which those statutory increases were not taken, for one reason or another. Then one year the landlord decides to take them, and it is not five per cent any more; it is 25 per cent.

Mr. Chairman: You have heard the amendment and the debate. All those in favour of Mr. Reville's amendment to subsection 92(3) please so indicate. All those opposed? The amendment is defeated.

Motion negatived.

Mr. Chairman: All those in favour of subsection 92(3) please indicate. All those opposed?

There is a further amendment from Mr. Reville to add a subsection 92(4).

Mr. Reville: I will withdraw that to save my arm.

Ms. E. J. Smith: Mr. Chairman, on a point of order: We said at the beginning of the afternoon that we intended to deal with schedule B as we went by it, and we did not do that.

Mr. Chairman: You are quite right. We have not gone very far by it--about 20 sections.

Ms. E. J. Smith: No. I just noticed that we had done both section 72 and section 84.

Mr. Reville: Why do you not just move it?

Mr. Chairman: Ms. Smith moves schedule B.

Schedule B agreed to.

Mr. Chairman: Before we leave this, shall section 92, as printed in the bill, carry?

Section 92 agreed to.

On section 93:

Mr. Chairman: Section 93 was stood down previously, and an amendment is proposed by Mr. Reville.

Mr. Reville moves that section 93 of the bill be struck out and the following substituted therefor:

"93. Where a landlord makes an application under section 71, 83 or 86, the minister may refuse to recognize all or part of the capital expenditures or proposed capital expenditures claimed by the landlord where in the opinion of the minister such expenditures became necessary as a result of the landlord's neglect in maintaining the residential complex or any unit therein."

Mr. Reville: This amendment actually makes two changes to the section as proposed by the government and as recommended by RRAC. First, it deletes the words "are substantial and" in the government amendment so that the expenditures need not, in my version, be substantial. It also deletes the two words "ongoing deliberate," which modify the noun "neglect."

The reason is that it strikes me that ongoing and deliberate are probably circumstances that are impossible of proof, so that you have created a worthless kind of condition. I think ongoing and deliberate, in law, are very difficult to prove and, in fact, will never be proved under this bill, so you might as well just pull the section.

The other thing is that requiring the expenditures to be substantial strikes me as being perhaps practical but modestly unprincipled on the part of the government. When I say this I mean that if a landlord's neglect causes an expenditure of any kind, why should the tenant pay for that? If, in the discharge of my duties, I am negligent and a loss is suffered, is it not my responsibility to make up that loss? If the landlord refuses to repair something that should have been repaired and if a loss is suffered, then that is the landlord's problem, it seems to me, and not the tenant's problem. It obviously becomes the tenant's problem, but the tenant should not have to solve the problem by paying for it.

That is why I made the amendment. It is not something you have not heard from me before. Here it is again; here it comes again.

Ms. Caplan: Without making a long speech and proving his fanfare to be correct, I will just state that we believe this was handled extremely well by RRAC and we will support its recommendation.

Mr. Chairman: The committee has heard the amendment by Mr. Reville. All those in favour of the amendment please indicate? All those opposed? That is defeated.

Motion negatived.

Mr. Chairman: Shall section 93 as printed in the bill carry?

Section 93 agreed to.

17:30

Mr. Chairman: Section 94 was previously carried.

Sections 95 to 97, inclusive, agreed to.

Mr. Chairman: Part VII of the bill is appeals. Section 98 was carried. Section 99 was deferred.

Section 99 agreed to.

Mr. Chairman: Section 100 was previously carried.

Section 101 agreed to.

Mr. Chairman: Section 102 was carried.

On section 103:

Mr. Reville: I have an amendment and I beg the committee's indulgence to share some different words with you, which I do not have. I cannot circulate them.

Ms. Caplan: Do you want to recess for five minutes?

Mr. Reville: I think if you listen, you will not be unhappy.

Mr. Chairman: What do you want to do?

Mr. Reville: I want to replace the words that I have with some other words. I will give them to the clerk to look at, but not yet.

Mr. Chairman: Mr. Reville moves that section 103 be amended by adding thereto the following:

"103(2) All policy guidelines or rules of procedure made by the board under subsection (1) for the conduct of hearings shall be made available for examination by the public."

Mr. Reville: Basically, this is a drafting improvement to my original motion that I am happy to accept. All it does is to propose that the board make its procedures public, which seems like an appropriate practice. If the clerk will be comforted, I will just move that piece of paper over to you.

Ms. Caplan: That, of course, was the intent, and we have no problem with adding it.

Mr. Chairman: No problem with that unprinted amendment? Shall the amendment to section 103 moved by Mr. Reville carry? All those in favour? Those opposed? It is carried.

Section 103, as amended, agreed to.

Mr. Reville: That doubles my score, Mr. Chairman. I want you to know that.

Mr. Chairman: Yes, I think that is worthy of comment.

Sections 104 to 111, inclusive, were previously carried.

Section 112 agreed to.

On section 113:

Mr. Reville: I have a technical amendment.

Mr. Chairman: Mr. Reville moves that section 113 of the bill be struck out and the following substituted therefor:

"113. An appeal from an order of the minister or the board stays the order pending the hearing of the appeal."

Mr. Reville: I removed the word "not." It is technical. Removing the word "not" continues the current situation under the Residential Tenancies Act. The bill is proposing something that is not in place today. I think you have to honour history and tradition.

Ms. E. J. Smith: We will not be supporting the amendment.

Mr. Reville: I did not think so.

Mr. Chairman: You have heard the amendment. All those in favour of the amendment please so indicate. All those opposed.

Motion negatived.

Section 113 agreed to.

We will move to part VII-A, licensing. Section 113a was previously carried. Section 114 was stood down previously.

Ms. E. J. Smith: The government requests the patience of the committee while we work on the housekeeping of an amendment to this.

Mr. Chairman: Section 114 is stood down. Section 115 was previously carried and section 116 was deferred. There is a proposed amendment from Mr. Reville.

On section 116:

Mr. Reville: These amendments keep on coming. I have an amendment before you. I would like to try these words.

Mr. Chairman: Mr. Reville moves that section 116 be struck out and the following substituted therefor: "Any person may seek to secure and enforce the rights established by this Act and may, without let or hindrance, organize or participate in an association the purpose of which is to secure and enforce the rights established by this Act."

Mr. Reville: I am trying to extend the rights already given under section 116. I am trying to do them in a way that is more specific than my

original amendment. The right is implied by the bill, but I have changed my words from tenant to person so that everybody is included. I submit this to you. I do not think it is a change in the principle of the bill at all. It is a little more specific.

Ms. Caplan: We have no problem with that.

Mr. Chairman: Is the committee comfortable with the amendment as read?

Ms. E. J. Smith: I would be interested to know if any of our administration have any comments.

Mr. Chairman: Ms. Stratford said it is all right.

You have heard the amendment.

Section 116, as amended, agreed to.

Mr. Chairman: Section 117 was previously agreed to.

Section 118 was deferred. There is an amendment which adds to the end of it. Let us go through the bill to that point.

On section 118:

Mr. Reville: I can probably save time by indicating that my amendments create offences under this act which are already offences under the Landlord and Tenant Act. It is unnecessary for me to do that. I was concerned about making sure people were protected. Now that I am aware they are indeed protected under subsection 122(1) and clause 121(4)(b), I am content. I will withdraw my amendment and support section 118.

Section 118 agreed to.

Mr. Chairman: Sections 119 to 122, inclusive, were previously carried. Section 123 was deferred. There is an amendment.

On section 123:

Ms. E. J. Smith: There is a fairly substantial government amendment to this. I know there is a very short NDP amendment.

17:40

Mr. Chairman: Ms. E. J. Smith moves that section 123 of the bill be struck out and the following substituted therefor:

"123. Sections 60, 61, 70 to 73, 75 to 110, 114, 115, 117, 118, 120 to 133, clauses 134(1)(a),(b),(f)and (g), subsections 134(2) and (3) and subsection 135(2) of the Residential Tenancies Act, being chapter 452 of the Revised Statutes of Ontario, 1980, are repealed.

"123a. Section 7 of the Residential Complexes Financing Costs Restraint Act, 1982, as amended by the Statutes of Ontario, 1983, chapter 69, section 4, 1984, chapter 65, section 1, and 1985, chapter 15, section 4, is repealed and the following substituted therefor:

"7(1) This act is repealed on the day to be named by proclamation of the Lieutenant Governor.

"(2) Despite subsection (1), this act continues in force for the purpose of hearing and making orders in respect of applications made to the commission under section 126 of the Residential Tenancies Act on or before the day immediately preceding the day on which this act is repealed by proclamation of the Lieutenant Governor and not finally disposed of by the commission on or before that day, and to appeals therefrom."

Ms. E. J. Smith: I call these housekeeping in the sense that they bring this act and the other acts into combination and noncontradiction.

Mr. Chairman: All right. Any further comments?

Mr. Reville: I have a question. Before I move my amendment, maybe I can be spared the agony here. I do not understand why you do not repeal all of the Residential Tenancies Act. I do not understand what all this hunting and pecking is about. I wonder if Ms. Stratford could explain that.

Ms. Stratford: The reason we did not repeal the other sections of the Residential Tenancies Act was that those relate to landlord and tenant matters generally, and since the Landlord and Tenant Act is administered by a different ministry, the Ministry of the Attorney General, we felt it best to restrict our scrutiny simply to those sections under the jurisdiction of the Ministry of Housing.

Mr. Reville: That sets forth a whole chain of thought in my mind, which I will leave there.

Mr. Chairman: Is there any further comment on the amendment to section 123 as moved by Ms. Smith? If not, all those in favour of the amendment, please indicate. All those opposed.

Motion agreed to.

Mr. Reville: I will withdraw my amendment on section 123.

Mr. Chairman: Shall section 123 stand as part of the bill?

Section 123, as amended, agreed to.

On section 124.

Mr. Chairman: Section 124 was deferred and there is a proposed amendment.

Ms. E. J. Smith: I have an amendment.

Mr. Chairman: Ms. Smith moves that subsection 124(1) of the bill be amended by adding thereto the following paragraph:

"4. A court proceeding mentioned in subsection 84(4) of that Act commenced before the day this section comes into force."

Mr. Chairman: Are there any comments on Ms. Smith's amendment?

Mr. Reville: Yes. I will make it economical. The amendment moved by

Ms. Smith satisfies the concerns addressed in my two amendments. I am not sure of the relationship of how these concerns were satisfied; however, I will support Ms. Smith's amendment and I will withdraw my two.

Ms. E. J. Smith: I appreciate the co-operation.

Mr. Reville: A two-for-one swap. I want to reopen section 68.

Ms. E. J. Smith: Yes, I wish to reopen it.

Mr. Chairman: You have heard the amendment by Ms. Smith. All those in favour of section 124, please indicate. Carried.

Section 124, as amended, agreed to.

Mr. Chairman: Sections 125 and 126 were previously carried.

Ms. E. J. Smith: I want to request permission of the committee to reopen section 125 which, I realize, will require a vote--

Mr. Chairman: Is there unanimous consent? Is there agreement?

Agreed to.

On section 125.

Mr. Chairman: Ms. Smith moves that section 125 of the bill be struck out and the following substituted therefor:

"125. (1) This act, except subsection 68(1) and sections 122, 123a, 125 and 126, comes into force on a day to be named by proclamation of the Lieutenant Governor.

"(2) Sections 123a, 125 and 126 come into force on the day this act receives royal assent.

"(3) Subsection 68(1) and section 122 shall be deemed to have come into force on the 1st day of August, 1985.

Mr. Chairman: Any comments? There is no comment on the amendment. Shall section 125, as amended by Ms. Smith, carry?

Section 125, as amended, agreed to.

Mr. Chairman: Section 126 was previously carried.

I believe this would be a good time to break. May I also thank Mr. Sifton--I know he has to leave now--for being with us today and Ms. Amaya-Torres. Thank you both very much.

Are there any comments from the committee members?

Mr. Gordon: I have a pressing engagement in Sudbury tomorrow that unfortunately requires that I leave the city by air around three o'clock. I ask the committee's concurrence to not meet tomorrow but to meet on Monday when, I believe, we probably can finish this bill up.

Ms. E. J. Smith: We are happy to co-operate on this.

Mr. Reville: I am less happy with this than it seems the government is, but these things happen. I very much hope, given the remaining matters, in the main, are of less consequence than some of the matters we have already dealt with, that we can indeed wrap this up on Monday and get back to the House to see what the pleasure of the House is.

Ms. Caplan: I promise not to tease the bear on Monday.

Mr. Reville: The bear will not be teasable on Monday.

Mr. Chairman: Just before the committee adjourns, may I suggest that since Bill 51 has had a long and tortuous route from time to time, when we complete Bill 51, there be a meeting of the committee some evening during which we will plan our agenda for upcoming business.

Mr. Gordon: Very good.

Mr. Chairman: We are adjourned until Monday afternoon.

The committee adjourned at 5:48 p.m.

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

RESIDENTIAL RENT REGULATION ACT

MONDAY, NOVEMBER 24, 1986



STANDING COMMITTEE ON RESOURCES DEVELOPMENT
CHAIRMAN: Laughren, F. (Nickel Belt NDP)
VICE-CHAIRMAN: Reville, D. (Riverdale NDP)
Bernier, L. (Kenora PC)
Caplan, E. (Oriole L)
Cordiano, J. (Downsvie L)
Epp, H. A. (Waterloo North L)
Gordon, J. K. (Sudbury PC)
Morin-Strom, K. (Sault Ste. Marie NDP)
Pierce, F. J. (Rainy River PC)
Smith, F. J. (London South L)
Stevenson, K. R. (Durham-York PC)

Substitution:

Jackson, C. (Burlington South PC) for Mr. Stevenson

Clerk: Decker, T.

Assistant Clerk: Manikel, T.

Staff:

Fader, J. A., Deputy Senior Legislative Counsel

Witnesses:

From the Ministry of Housing:

Curling, Hon. A., Minister of Housing (Scarborough North L)
Laverty, P., Director, Rent Review Policy Branch, Rent Review Division
Peters, F. H., Executive Director, Rent Review Division
Stratford, L. A., Senior Solicitor, Rent Review Division

From the Rent Review Advisory Committee:

Hogan, M., Co-Chairperson
Schwartz, J.

LFGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday, November 24, 1986

The committee met at 3:59 p.m. in room 228.

RESIDENTIAL RENT REGULATION ACT
(continued)

Consideration of Bill 51, An Act to provide for the Regulation of Rents charged for Rental Units in Residential Complexes.

Mr. Chairman: The standing committee on resources development will come to order. I apologize for the delay. The proceedings in the chamber were more lengthy than usual, which added to our problem.

When we adjourned last week, we still had to go back to the beginning of the bill and work through the sections that had been stood down. Welcome to the committee again, Mr. Schwartz, Ms. Hogan and Mr Grenier. As usual, we appreciate your attendance and your monitoring of us.

On section 1:

Mr. Chairman: In section 1, the definition section, we carried everything up to "residential complex." Are there any comments or amendments on "residential complex?"

Mr. Reville: I think I have, do I not, Mr. Chairman? I have more comments than I thought I had. I had an amendment to the defintion of "residential complex" because I was concerned, not only as a serious legislator but also as a street politician who has had to face a problem from time to time. I am sure virtually every other MPP in the province has had this problem at one time or another. The problem is that there are people living in condominium units who believe they are tenants and who in fact are tenants, but they are not always aware they are living in a condominium, particularly when they are about to be evicted.

My amendment was to try to make clear that this act applies to people in that situation. However, on mature consideration, I realized my amendment might cause more difficulty than the original section of the bill because it would leave uncovered other kinds of rental situations that occur. I am going to withdraw the amendment.

Ms. Caplan: Good speech. I liked that speech.

Mr. Reville: If Ms. Caplan would like me to make more comments, I have a longer speech.

Mr. Chairman: I have no idea why Ms. Caplan is teasing the bears today.

Ms. Caplan: I guess there are no television cameras.

Mr. Chairman: The proposed amendment has been withdrawn. Are there any comments on the definition as it now stands in the bill?

Mr. Gordon: I have a definition to insert at the appropriate time.

Mr. Chairman: Is it on retirement residences?

Mr. Gordon: No, it is about extraordinary operating costs.

Mr. Chairman: Can we add it at the end?

Mr. Reville: Then it would not be in alphabetical order. It should be added after "economic loss."

Mr. Chairman: Shall "residential complex" stand as part of the bill? Carried.

Mr. Chairman: The next definition, "services and facilities," was also stood down. This is the section where I understand Mr. Gordon is going to add or include a definition. We had rather arbitrarily called it clause (o) following clause (n).

Mr. Gordon: Is this where you wish to put "extraordinary operating cost"?

Mr. Chairman: No, I am thinking of the retirement residences.

Mr. Gordon: We are not putting that forward.

Mr. Chairman: Do you have your amendment?

Mr. Gordon: Yes.

Mr. Chairman: Mr. Gordon moves that section 1 of the bill be amended by adding thereto the following definition:

"Extraordinary operating cost" means a change in the cost of one item in the building operating cost index that the landlord has experienced or will experience:

"(a) that creates a variance of at least 50 per cent from the building operating cost index component; or

"(b) that would justify a variance in revenue of at least one per cent from the amount resulting from application of the building operating cost index component."

Mr. Chairman: I do not want to complicate this further but we have a note of your amendment and it was not this wording. Has this been changed?

Mr. Gordon: Yes.

Mr. Chairman: I think we should call this clause (o). I am sorry. You want this as a separate definition entirely. Then they are not numbered. The definitions are just dropped in. Do you have a copy of it? We do not have one.

Mr. Reville: I have a copy of it.

Mr. Gordon: Here is a copy.

Mr. Chairman: You have moved it. Do you wish to speak to it, Mr. Gordon?

Mr. Gordon: We believe this is consistent with the deliberations of the Rent Review Advisory Committee.

Mr. Chairman: Let me get caught up. Shall the "services and facilities" section carry as in the bill? Carried.

Thank you. We now move on to Mr. Gordon's addition on "extraordinary operating costs" in section 1. Is there any further comment? Mr. Gordon has moved it and spoken briefly to it.

Ms. Caplan: We agree that this does reflect the agreement reached by the Rent Review Advisory Committee, and we have no difficulty with the amendment as proposed.

Mr. Chairman: All those in favour of Mr. Gordon's motion?

All those opposed?

Motion agreed to.

On section 4:

Mr. Chairman: The next section on which there was an amendment that was stood down is section 4. Are there any comments on section 4?

Mr. Reville: Yes. I have moved an amendment to clauses 4(1)(e) and (g). Rather than proceed in this precise way, I suggest we get some comment from the staff on whether it thinks it would undertake a review of the whole question of retirement residences to resolve some of the problems that we now know about. If that undertaking were forthcoming from the Ministry of Housing, I would be happy to withdraw both these amendments.

Mr. Chairman: Mr. Laverty, did you want to respond to Mr. Reville's request?

Mr. Reville: It is a question of regulating retirement homes. I would be happy to speak to it further, but perhaps Dr. Laverty can put me out of my misery in this regard.

Mr. Laverty: We are aware that both yourself and Mr. Gordon have raised questions about various types of retirement residences and I believe that matter is being communicated to the minister. He has indicated to Mr. Gordon, and we can indicate to you today, that we will be undertaking to explore that subject with the Minister of Health (Mr. Elston) and the Minister without Portfolio responsible for senior citizens' affairs (Mr. Van Horne), to see what the appropriate course of action would be.

As you are aware, this is a bit of a delicate matter, because in quite a number of circumstances it crosses over the line between residential accommodation on the one hand and various degrees of health care on the other. It is necessary to make sure that any solution we come up with is consistent from both perspectives.

Mr. Reville: If I may conclude, one of the circumstances I was anxious to deal with relates to those cases in which an agency provides

various kinds of therapeutic services; where it actually rents a building from a land owner and then houses people in the building for therapeutic purposes. From talking to Ms. Stratford, I am aware that in some cases those are commercial leases this bill would not cover and in some cases they are not. It is very difficult to legislate the protection that I am interested in. I know ministry officials are aware of this problem.

In respect of the retirement residences, I am also aware that the Ministry of Health is concerned in those cases where retirement residences are attached to nursing homes. Unfortunately, it is not unusual that the staff from the retirement home shows up at the nursing home on the day the inspector arrives so there is lots of staff. When the inspector leaves, the staff goes back to the retirement home again.

These are issues we need to deal with, either in this committee, other committees of the Legislature or other ministries. I am content that the ministry is on top of this situation and withdraw my amendments to clauses 4(1)(e) and 4(1)(g).

16:10

Mr. Laverty: I would like to indicate that any other concerns you wish to communicate to us will be most welcome to our inquiry.

Mr. Gordon: I might clarify a point for the committee. I think Dr. Laverty did shed some light on some of the reasons we removed the amendment with regard to retirement residences. We found we were mixing apples and oranges; it did not fit within this bill. There are some very real problems that the industry wishes to address and that we are also aware of. We would like to see the Minister of Housing (Mr. Curling), the Minister of Health and the Minister of Community and Social Services (Mr. Sweeney) take a closer look at this and then come up with some enabling legislation, guidelines and so forth, which would clarify matters.

I think the very fact that we brought it up in this forum has helped to move this matter along. This is why we are withdrawing it at this time. We are not bringing it forward. Mr. Reville has obviously done some study of this matter and I concur that what he said had a great deal of validity.

Mr. Chairman: Are there any other comments on subsection 4(1)? If not, do clauses 4(1)(a) through (j) carry as printed in the bill?

Mr. Pierce: I still have a problem. Nonprofit co-operative housing units are not part of the bill. Recognizing that, based on cost related to the operation of the unit, nonprofit housing unit operators are able to raise their rents to compensate for the loss of revenue in order to continue to make them nonprofit, what makes them any different from a landlord, who requires the same kind of increases to make his accommodation nonprofit but still to some degree profitable for him to continue to own? Why are these units exempt from the bill?

I have some further concerns in section 4, but certainly clause 4(1)(d) elects to have nonprofit co-operative housing exempt from the bill.

Ms. Caplan: I think Mr. Peters can answer best. I think you said in your preamble the difference between the two was that the co-ops were nonprofit and therefore costs were equal to the operating expenses.

Mr. Pierce: Still, the operators of a nonprofit unit require X dollars in income to make the place feasible to operate and require the regulations provided in the bill to make them able to do that, so why are they exempt?

Mr. Chairman: You are referring to clause 4(2)(b), right?

Mr. Reville: I am referring to clause 4(1)(d), on page 6.

Mr. Chairman: Okay. I am with you now.

Mr. Peters: Clause (d) relates to nonprofit co-operative housing, and in fact there is no landlord-tenant relationship existing in a co-op. A person living in a co-op unit is considered to be a member of that co-op and participates directly in the management of the co-op. It is usually run by a board of directors, and matters affecting what co-ops call housing charges instead of rent are matters of debate. The budget, for example, is struck collectively by the directors and voted upon by the co-op's membership.

One of the key features of the nonprofit co-op program is the view held by the co-op that participation by the members in maintenance, etc., has a direct impact on its operating costs.

The other element that is crucial to both the nonprofit co-operative program and the municipal nonprofit and/or private nonprofit housing programs is that, generally speaking, regardless of program, they enjoy a heavy provincial and federal subsidy. It is recalculated annually on the basis of increases in operating costs and/or, in the case of co-ops, the federal, provincial and co-op agreements. The key feature of all is that they are not for profit; so whatever costs are passed through generally relate only to those costs required in terms of adjustment.

As I mentioned, the other issue is the heavy subsidies involved. These figures are a bit dated; they are about a year and a half or two years old. The average operating cost of a social housing unit in Ontario was about \$900 a month on a break-even rent. If you had no subsidies, you would have to charge \$900 a month per unit to break even. On average, the actual rent charged was \$500 a month. That \$400 difference was shared under federal-provincial housing agreements and was a partnership subsidy.

Historically, social housing programs have been exempt from rent regulation because of the nature of the program and the heavy subsidies involved. This bill continues that same type of practice.

Mr. Pierce: I appreciate the explanation, but I am still looking at a nonprofit co-operative housing unit that has, if I may use some figures, approximately 100 tenants, 60 of whom may be high-income earners. They decide at a board of directors meeting that they are going to pave their parking lots, put in new lawns and make a number of improvements to the building. For that reason, they will increase the rents of all tenants. It is voted on by a majority of the tenants, in numbers that far exceed the ability of the other 40 per cent to pay. They have no recourse, other than to accept the higher increase or move out, unlike tenants who are covered under the bill and have an opportunity to approach the minister or the Rent Review Advisory Committee.

In the case of 100 tenants, 60 or 70 of whom may be high-income earners, as opposed to 30 who may not have access to that kind of income, we are again

faced with a situation of a group of people who are governed by the majority. What protection is built into this act that would provide some room for movement of the 30 per cent, 20 per cent or 10 per cent of the tenants who can ill afford to pay the high increases that could be dictated by tenants who can well afford them? That is the only question I have.

If we are here to protect the tenants in Ontario, we should be protecting all the tenants in the province, not a handful.

Mr. Peters: Again, one of the key features of the co-operative housing program and the municipal and private nonprofit programs is the rent-geared-to-income component that is built into each of the projects. That depends on many factors, but historically the co-operative sector has had rent geared to income among its members.

In fact, based on my direct experience with them over the years, I have found it is quite sensitive in passing through any exorbitant or unwarranted costs to its membership. If there are costs to be borne in requiring repairs, those people who can ill afford to pay a higher rent will not pay a higher rent, because their rent is based on income. They would be protected in that regard.

Quite frankly, I am not aware, and I have been working for some time in the social housing field, of co-ops that were not very prudent and cautious, on an annual basis, in passing through rent increases. In fact, their track record is quite enviable. They want to keep their rents moderate and they have the added protection, as I mentioned, of having a significant portion of the project administered on a rent-geared-to-income basis. In those two features, the affordability problem for some tenants is certainly addressed through the rent-geared-to-income component.

16:20

Mr. Pierce: Of course, there is also a factor in the number of rent-geared-to-income units in a nonprofit organization's housing economies, and the proportion is not great enough to allow the rent-geared-to-income component to outweigh the other component in voting at a shareholders' meeting.

Mr. Peters: That was indeed a feature of the older social housing programs. The current programs would allow, should the group want it, rent-geared-to-income or income testing covering the full 100 per cent range of the project.

In those projects where there is, for the sake of discussion, 50 per cent rent-geared-to-income or some other form of income assistance and income testing, again the balance of the project is paying what is called the housing charge--it is not rent in the jargon of the trade--and the increases to that housing charge, as I mentioned, are voted annually.

I tried to convey the idea that the boards of directors of co-op projects historically have been very cautious in raising rents because they have a type of program with the federal government that allows them to raise rents if required; if it is not required, then they do not, and it is a direct cost pass-through. It has worked well.

Mr. Pierce: I guess the bottom line question is, if it has worked that well, why would there be a reluctance on the part of the ministry to have

it included under Bill 51? If everything is working well, why would they be excluded? Why do we not want to provide those tenants with the protection and the regulations under Bill 51?

Ms. Caplan: If I may try this, they have a very different relationship. They have the protection of being part of a co-op. They have the protection of being able to participate in the meetings to determine what their project will do. They have the opportunity to participate in the maintenance of the project to keep down the costs. They have the protection of government programs that assist not only rent-gearied-to-income but also in support for--

Mr. Pierce: I have heard all that from Mr. Peters, but I am still asking, why do we want to exempt them from the protection of the bill as well?

Ms. Caplan: I thought Mr. Peters answered it very well. They have existing and additional protections. They have not been included in the bill historically, and they are not included at this time because they do not have a landlord-tenant relationship.

Co-op living is very different from a landlord-tenant relationship. The co-op tenants share in the decision-making not only for their own units but also for the total complex. They share in the decision-making through membership on the board and they share in the benefits that come through co-op living. They do not have a landlord-tenant relationship, and that is significant. They have other mechanisms for protection that are not afforded to other tenants in this province.

Mr. Pierce: But I still see that there could be within a nonprofit or co-operative nonprofit housing unit some tenants who consider themselves to be--

Ms. Caplan: They are not tenants in a co-op housing project.

Mr. Pierce: Okay; you can call them what you like. They still consider themselves to be tenants within a nonprofit unit.

Ms. Caplan: I would say that in most co-op units they consider themselves to have a vested interest in that co-op unit and share in the decisions. I do not see your point at all.

Mr. Chairman: I think that is the point. You two are like two ships passing in the night. I do not think you are convincing Mr. Pierce, and I do not think he is convincing the government to change its policy.

We can take these clauses one by one, Mr. Pierce, and then you can make your decision when we come to clause 4(1)(d).

Shall clauses 4(1)(a) through (c) carry as part of the bill?

Mr. Gordon: I have some amendments to section 4.

Mr. Chairman: Yes, you have an amendment to subsection 4(1a), do you not?

Mr. Gordon: Yes.

Mr. Chairman: All right. Can we deal with subsection 4(1) first? Shall clauses 4(1)(a) through 4(1)(c), inclusive, carry? Carried.

Now clause 4(1)(d). This is where you have to make up your mind, Mr. Pierce.

Mr. Pierce: I have, Mr. Chairman.

Mr. Chairman: All those in favour of clause 4(1)(d) as printed in the bill please indicate. All those opposed? Carried.

Shall clauses 4(1)(e) through 4(1)(j), inclusive, stand as part of the bill? Carried.

Mr. Gordon has an amendment to subsection 4(1a).

Mr. Gordon: I have a number of amendments in section 4. The first is to subsection 4(1a).

Mr. Chairman: Mr. Gordon moves that subsection 4(1a) of the bill be amended by adding thereto the following definition:

"The minister, on the application of a landlord or a tenant or on the minister's own motion, may make an order under subsection 13(3) declaring that the act does not apply to transient living accommodation used as a suite hotel unit in accordance with regulations made under this act."

Mr. Gordon: We are amending the reference to suite hotels because the way the section was originally worded did not make it clear that individual units could be exempt.

Mr. Chairman: The word "unit" is not in the original, yes. Do you wish to speak any further to the amendment? Is there any further comment on Mr. Gordon's amendment to subsection 4(1a)? All those in favour of the amendment, please indicate. All those opposed?

Motion negatived.

Mr. Chairman: Shall subsection 4(1a) as printed in the bill stand? Carried.

There is an amendment to clause 4(2)(a) and also to clause 4(2)(b).

Mr. Reville: That is an addition to the bill.

Mr. Chairman: Right. Shall clause 4(2)(a) carry, as printed in the bill? Carried.

Clause 4(2)(b). Mr. Gordon?

Mr. Reville: I think it is Mr. Reville.

Mr. Gordon: I have clause 4(2)(a) and he has clause 4(2)(b).

Mr. Reville: I have clause 4(2)(b) and Mr. Gordon's amendment is a new section.

Mr. Chairman: Okay. Mr. Reville.

Mr. Reville: I have already moved this amendment. It is the Noreen Dunphy amendment, or the Dunphy act, as I referred to this, and it just adds some words to the bottom of the clause so that this bill becomes identical in this respect to other legislation.

It relates to those odd situations in which there is a rental unit in a co-operative. The rental units are very few in number. As far as we can understand, there are maybe 40 or 50 in the province, scattered throughout co-operative projects.

Sometimes these units are set aside for placement of tenants by a supportive organization; as homes for young mothers; as a referral agency for ex-psychiatric patients; for interval or second-stage housing for women who are victims of family violence; for emergency use; for temporary accommodation for refugees; or for somebody who has been forced out because of a fire.

It is inappropriate for this Legislature to require these few units to be subject to rent review, mainly because it will discourage co-ops from making these units available to groups. For that reason, I have moved the amendment.

Mr. Chairman: Is there any further comment on Mr. Reville's amendment? All those in favour of Mr. Reville's amendment, please indicate. All those opposed? Carried.

The amendment is agreed to and stands as part of the bill.

Clause 4(2)(c) is next. Shall clause 4(2)(c) carry? Carried.

16:30

Shall clause 4(2)(d) carry? Carried.

Mr. Gordon moves that section 4 of the bill be amended by adding thereto the following subsection:

"(2a) This act, except the provisions thereof relating to the development and enforcement of appropriate maintenance standards, does not apply to a rental unit, the monthly rental for which is \$1,000 or more."

Mr. Gordon: We have to face the fact that rent control is rather out of place in this province at present. We have to start with a benchmark somewhere if we are going to look to future encouragement of new housing.

Mr. Chairman: Are there any other comments on Mr. Gordon's amendment?

Mr. Reville: A rental unit is a rental unit is a rental unit. Thank you.

Interjection: That is not what you said a minute ago.

Mr. Epp: That is the most eloquent speech.

Ms. Caplan: As we have seen in the past, if anything, this kind of amendment often leads to encouragement to the rent review process for

increases above the guidelines so that one can then go through the ceiling that rent review covers. It runs contrary to the general philosophy of Bill 51. Therefore, we will not accept it.

Mr. Chairman: You have heard the amendment and the eloquent speeches flowing therefrom. All those in favour of Mr. Gordon's amendment, please indicate. All those opposed?

Motion negatived.

Mr. Chairman: Are there any comments on subsection 4(3)?

Mr. Reville: No comment.

Mr. Chairman: Shall subsection 4(3) carry? Carried.

Mr. Gordon moves that the bill be amended by adding thereto the following section:

"4a(1) Where the vacancy rate, determined in the prescribed manner, that prevails in a local municipality in respect of rental accommodation is four per cent or more, the council of the municipality may by bylaw provide that this act, except for the provisions thereof relating to the development and enforcement of appropriate maintenance standards, does not apply in the municipality, and on and after the coming into force of the bylaw this act ceases to apply in the municipality accordingly.

"(2) Any person affected by the bylaw may, within 30 days of the passing of the bylaw, appeal to the Ontario Municipal Board.

"(3) The parties to the appeal are the appellant, the municipality and any person added as a party by the Ontario Municipal Board.

"(4) On an appeal, the Ontario Municipal Board shall hold a hearing, of which notice shall be given to the parties, and may thereupon dismiss the appeal or allow the appeal and repeal the bylaw.

"(5) Section 94 of the Ontario Municipal Board Act applies to an order of the municipal board made under subsection 4.

"(6) Where an appeal has been brought, the bylaw does not come into force until the appeal has been disposed of and thereupon the bylaw, unless it has been repealed by the Ontario Municipal Board or the Lieutenant Governor in Council, shall be deemed to have come into force on the day it was passed."

Mr. Gordon: We view this as an opportunity for this government, through this bill, to look farther down the road than the years 1986 or 1987 and to recognize that if we carry on with rent controls in the manner we are doing, we are going to see less and less rental housing built in Ontario. There is hardly an authority in the field today who has examined rental housing in any country of the world and has not come to the determination that rent controls per se lead to the end of building affordable housing in a province or a country.

There are jurisdictions throughout the world that have repealed their rent controls or are looking in that direction. We all recognize that at this time in Ontario we are faced with an unprecedented crisis in supply and affordability.

It is not our intention or suggestion that it would be feasible to lift rent controls in a blanket manner at this time.

At the same time, in a municipality where there is a four per cent vacancy rate, because it knows best what is going on in the municipality, it should have the option to raise those rent controls and to work within the very strong point that is being made with this amendment. It could tell its developers and nonprofit housing and co-op people that it wants to work towards a four per cent rate, and when it happens, it can lift it. This is a reasonable approach. To deny this at this time is burying our heads in the sand.

Mr. Chairman: Are there any other comments on Mr. Gordon's significant amendment?

Mr. Reville: You may not be able to hear me, because my head is buried in the sand. If you can hear me muffling through, it is very interesting that the Housing critic for the Progressive Conservative Party of Ontario is prepared to make this gesture towards the phasing-out of rent review. It is a gesture I do not support, nor does my party. It is a dangerous gesture, although it is a signal that will be picked up and will reverberate throughout this province, and that concerns me very much.

Some of the experts Mr. Gordon refers to, in my view, are charlatans and mountebanks and should not be given much credence. Why do we not vote on this?

Mr. Chairman: Other people may want to speak.

Ms. Caplan: We will not be supporting this amendment.

Mr. Chairman: All those in favour of Mr. Gordon's amendment to section 4, please indicate. All those opposed?

Motion negatived.

Mr. Chairman: Shall section 4 stand as it is in the bill?

Section 4 agreed to.

Mr. Chairman: The next section that was stood down is section 13. Subsection 13(1) was carried. Subsection 13(2) was stood down. Sorry, Mr. Reville, I went by section 11. Did you wish to move an amendment to clause 11(a)? I have one in printed form here.

Mr. Reville: The amendment I had moved was to ensure that we lived up to our commitment to multiculturalism in the province and to make sure that the documents would be available in the most commonly spoken languages. Since I moved the amendment, I have had assurances from the government that it intends to do that. There are some problems with putting it in the bill, because it raises some legal questions. I will withdraw that amendment, secure in the knowledge the government is going to do everything it can to make sure people can understand this legislation.

Mr. Chairman: Thank you.

On section 13:

Mr. Chairman: We will move on to section 13. Subsection 13(1) has already been carried. Are there any comments on subsection 13(2)?

Ms. E. J. Smith: I have distributed an amendment to subsection 13(2). It is a technical amendment to ensure we have powers to regulate substantive policy with regard to rent review criteria.

Mr. Chairman: Ms. Smith moves that subsection 13(2) of the bill be struck out and the following substituted therefor:

"(2) The minister and the board, in the interpretation and administration of this act or when exercising any power or discretion conferred under this act, shall observe such procedural and interpretative rules and policies as are prescribed."

16:40

Mr. Bernier: Will the member explain the purpose of the amendment?

Ms. E. J. Smith: Both the landlords and the tenants desire this as a technical amendment to guarantee certainty of treatment and to eliminate broad, unfettered discretion in this area. It is mutually agreed upon.

Mr. Chairman: Are there any other comments on Ms. Smith's amendment?

All those in favour of the amendment please indicate. Opposed? Carried.

Subsection 13(3) was agreed to.

Are there any comments on subsection 13(4)? It was stood down.

Mr. Gordon moves that subsections 13(4) and (5) of the bill be amended by striking out "\$3,000" wherever it occurs and inserting in lieu thereof "\$5,000."

Mr. Gordon: In our view, it does not seem fair that a tenant who is owed more than \$3,000 is left to launch a separate court action for amounts in excess of \$3,000. We believe the \$5,000 figure is a compromise and are prepared to stand by it at this time.

Ms. Caplan: While we believe this is a well-intentioned motion, we are opposing it because of the legal jurisdictional basis. Because there is a precedent for the \$3,000, we fear that if it is extended, the courts may not permit the \$5,000 increase and that tenants, instead of being able to receive the \$3,000 limit, where there is precedent, would not be able to receive anything. In view of that concern, we cannot support the increase because of the confusion about the jurisdictional limit under small claims court actions. For that reason alone, we believe the \$3,000 limit offers that protection to tenants. We are concerned that if we went beyond the jurisdictional limit, that protection would be lost. While we understand it is a well-intentioned motion, we fear the protection there now would be lost to tenants if we arbitrarily accepted that increase.

Mr. Pierce: Given that explanation, I am sure the member will acknowledge that the bill is being written for Toronto and not for Ontario, because the small claims court limit in the rest of the province is \$1,000. The precedent is only a Toronto precedent.

Ms. Caplan: No. The precedent has been established in the province.

Mr. Pierce: Of a \$3,000 limit for small claims court in Toronto.

Ms. Caplan: However, we believe that precedent is there.

Mr. Pierce: But not outside the boundaries of Toronto.

Ms. Caplan: No, we believe that precedent is there.

Mr. Pierce: Perhaps legal counsel can give us an interpretation of that.

Ms. Stratford: It is correct that only in Metropolitan Toronto does the provincial court (civil division) have a \$3,000 limit on jurisdiction. However, I believe Ms. Caplan's point is that because it is there in one place in Ontario, it stands throughout the province that this is something a provincial authority can do.

Mr. Pierce: Does this clause then allow the courts to make those kinds of allowances outside of Toronto as well, to the extent of \$3,000? Does it supersede the regulations in place for small claims courts throughout the rest of the province?

Ms. Stratford: No. The bill gives the authority to the minister to make orders that do not exceed \$3,000. It does not change the jurisdiction of the provincial court (civil division) but it views it as a precedent, so that the minister can do that. The concern would be that if the minister went over \$3,000, there would be a successful challenge to what his authority was to go beyond that.

Mr. Pierce: All right.

Mr. Reville: I too was very sympathetic with the intention of Mr. Gordon's amendment. I have spoken on a number of occasions about the limitations in the bill on the right of tenants to get their money back, which I do not find acceptable. However, I worry that because of the jurisdictional differences tenants might get less money back or might have a harder time getting money back, so I will reluctantly not support Mr. Gordon's amendment.

Mr. Chairman: You have heard the amendment.

All those in favour of Mr. Gordon's amendment please indicate.

All those opposed?

Motion negatived.

Mr. Chairman: We have two additions to section 13 moved by Mr. Reville.

Mr. Reville: These two amendments both bear out my sympathy with Mr. Gordon's amendment because I use the figure \$5,000 in them. I am going to withdraw both of these amendments on the advice of our solicitors that we may be setting up jurisdictional disputes that will also become problematic for tenants.

Section 13 agreed to.

Mr. Chairman: I do not have any amendments before me in section 14.

Ms. Caplan: That was all passed.

On section 15:

Ms. E. J. Smith: I have an amendment that I ask to be distributed.

Mr. Gordon: On which section?

Mr. Chairman: We are on section 15. The first amendment by Ms. Smith is being distributed to the members.

Ms. E. J. Smith: This is on subsection 15(4).

Mr. Chairman: Is there anything on subsections 15(1) to (3) inclusive? Those are carried.

Ms. E. J. Smith moves that her previous motion be amended by striking out subsection 15(4) and substituting the following therefor:

"(4) Where the report received by the minister under subsection 3 indicates that substantial noncompliance with a substantial standard has occurred and is subsisting, the minister, on his or her own motion, may order that any increase in the rent for a rental unit in the residential complex affected by the maintenance and occupancy order,

"(a) that will take effect on or after the date of the minister's order; or

"(b) that took effect at any time in the nine-month period preceding the date of the minister's order,

"be not collected by the landlord until the minister either receives a report from the standards board that the residential complex and any affected rental unit located therein are in substantial compliance with the provisions of the maintenance and occupancy order or so determines under subsection 6;

"4(a) Where the minister makes an order under subsection 4 to which clause (b) thereof applies, the order shall signify the date the report of the standards board is given to the minister under subsection 3 as the date on or after which the landlord may not collect an increase in rent;

"4(b) Where the tenant of a rental unit affected by an order of the minister made under subsection 4 has paid to the landlord any amount of an increase in rent that is declared by the order not to be collected, the minister shall order the landlord to repay to the tenant the amount of the increase in rent that was paid."

Ms. E. J. Smith: This amendment is to provide for the stay of rent increases to take effect as of the date of the standards board report and to require the landlord to repay to tenants amounts already collected on the increases.

Mr. Chairman: Are there any comments on Ms. Smith's amendment?

Mr. Reville: No comments.

Motion agreed to.

Mr. Chairman: Shall subsections 15(4), (5), (6) and (7) carry?
Carried.

16:50

That means section 15, as amended by Ms. Smith is carried, not as it stands in the bill because that part of the section was amended previously and stands separately.

Section 15, as amended, agreed to.

On section 15a:

Mr. Chairman: Mr. Reville moves that subsections 7 and 9 of section 15a of the bill as set out in Ms. Smith's motion be struck out and the following substituted therefor:

"(7a) The minister shall forthwith give a copy of an order made under subsection 6 to the landlord and to any tenant directly affected by the order.

"(7b) An order of the minister made under subsection 6 may be appealed to the board only in the manner and under the circumstances set out in subsection 9 except that subsection 9 does not apply to an order made under subsection 6 that quashes the order of the standards board.

"(9) Where a landlord or tenant appeals to the board from an order of the minister made under subsection 8, the landlord or tenant may at the same time appeal from any related order of the minister made under subsection 6, and where the landlord or tenant does so the board shall hear and determine both appeals together."

Mr. Reville: This amendment confers the right of appeal on tenants as well as on landlords, who are already provided for in section 15a.

Mr. Chairman: Mr. Reville is moving an amendment to Ms. Smith's amended version. Does section 15a(1) to (6) inclusive, as amended by Ms. Smith previously, stand as part of the bill? Carried.

Shall Mr. Reville's amendment to subsection 15a(7) stand? Carried.

Does subsection 15a(8), as previously amended by Ms. Smith, stand as part of the bill? Carried.

Mr. Reville is also amending subsection 15a(9). You heard the amendment. Shall Mr. Reville's amendment, subsection 15a(9), stand as part of the bill? Carried.

Section 15a, as amended, agreed to.

On section 41:

Mr. Reville: I would like to circulate an amendment to replace the amendment I tabled previously; I did not read it.

Mr. Chairman: Mr. Reville moves that section 41 of the bill be amended by adding the following subsection:

"41(2) The members shall file with the board a written declaration of any interests they have in residential rental property and shall be required to comply with the conflict-of-interest guidelines established by the board."

Mr. Reville: The intention of my amendment is simply that members of the board who may own residential rental property should declare that and should meet the guidelines established by the board. That seems to be a reasonable kind of request to make.

Mr. Jackson: I have one question. Does that include potential interests? In other words, does that cover negotiations under way? It is one thing to own it, which this says, but you might already be in an offer-to-purchase stage or be currently negotiating for parts of property. This does not clarify it. You are only in the process of owning it. Is it deemed to be owning if it takes you six months to close a transaction where you have only the rights to purchase and are not specifically the declared owner of the property?

Mr. Reville: I am delighted Mr. Jackson has been able to join us today.

Mr. Jackson: Is that in answer to those three questions?

Mr. Reville: The answer to your question is that the conflict-of-interest guidelines deal with beneficial interests of all kinds. If you have an offer to purchase and it is worth something, that will be dealt with as well.

Hon. Mr. Curling: Mr. Jackson, with reference to while the person is in the process of negotiating, after acquiring, would this motion not take into consideration that the member should file with the board a written declaration of any interest he has in residential property? You are saying "while they are negotiating." If it falls by, they do not have to; if they get it, they will still have to declare it.

Mr. Reville: If I could add something, procedural guidelines have been developed. I am thinking of P-3, which was revised on November 13, 1984. It indicates that ownership includes direct and indirect beneficial ownership. The stage of some negotiation to purchase is a question of fact. It is not an atypical situation in terms of conflict-of-interest guidelines, although maybe all our conflict-of-interest guidelines will become atypical after we see the new government bill.

Mr. Chairman: Are there any other comments on Mr. Reville's amendment? If it passes, section 41 will consist of subsections 1 and 2.

All those in favour of Mr. Reville's amendment, please indicate. Those opposed?

Motion agreed to.

Section 41, as amended, agreed to.

On section 63:

Mr. Chairman: The next section is section 63, according to my record keeping.

Mr. Reville: I held that down at the request of a member of the Rent Review Advisory Committee, and I have subsequently discussed the matter with that representative. His concern related to those applications currently under

way to recover moneys from landlords. It may be that we cannot deal with it particularly well in this section; however, if anybody is within the sound with my voice, maybe I should sound the illegal rent alert that people should get in their applications to get back their illegal rents before this bill passes. Illegal rent alert. There, I have sounded it.

Notwithstanding that speech, I will move my previous amendment, if I can find it. I know it is here.

Mr. Chairman: Mr. Reville moves that subsection 63 of the bill be struck out and the following substituted therefor:

"63.(1) Where a landlord has filed a statement under section 55 within the time permitted for filing, no amount shall be ordered under subsection 92(2) in respect of any excess rent paid more than six years before the filing date of a tenant's application under that subsection.

"(2) Where a landlord has not filed a statement under section 55 or has filed a statement later than the time permitted for filing, section 118 of this act shall apply in addition to sections 63(1) and 64."

Mr. Reville: Very briefly, because I have spoken to this matter at great length, subsection 63(1) reinstates the much more normal statutory limitation on these kinds of things, which is six years. Subsection 63(2) suggests that rather than give a filing landlord a prize for filing, we give the nonfiling landlord a bigger stick for nonfiling.

Since I have spoken to this matter at some length in the past, I will conclude by saying I do not believe it is appropriate to restrict the rights of tenants in the way the bill does. Such restriction will amount to several millions of dollars that should properly be returned to tenants.

17:00

Mr. Chairman: Any comments?

Mrs. Caplan: This was dealt with at length by the Rent Review Advisory Committee. We will be supporting the RRAC recommendations as outlined in the bill.

Mr. Chairman: Are there any other comments on Mr. Reville's amendment? All those in favour of Mr. Reville's amendment, please indicate. All those opposed?

Motion negatived.

Section 63 agreed to.

On section 88:

Mr. Chairman: The next section that was stood down is section 88. There is an amendment from Mr. Gordon, but it is an addition.

Mr. Reville: I have an amendment.

Mr. Chairman: Yes, you do, under subsection 3. Shall subsections 88(1) and 88(2) carry?

Mr. Reville: Could we vary the procedure? I would like to move my amendment on subsection 88(3) before voting on the balance of the section.

Mr. Chairman: I see no problem with that. Go ahead.

Mr. Reville moves that subsection 88(3) of the bill be struck out and the following substituted therefor:

"Where an existing tenant of a rental unit in a residential complex whose gross potential rent is found to be a chronically depressed rent under subsection 2 agrees in writing thereto, the landlord, with the written approval of the minister and without making application under section 71 but subject to making an application under section 67, may increase the rent charged for that rental unit to the amount the rent would be for that rental unit at the time the gross potential rent for the residential complex has reached the level at which it is no longer chronically depressed rent."

Mr. Reville: Subsection 88(3) as proposed in the bill is the fast-track section of the chronically depressed rent section, which troubles me greatly because of the possibilities of coercion. It indicates two grounds on which a landlord may avail himself or herself of the fast track. One is if the unit should become vacant and the other is if the tenant, for some bizarre reason, should sign an agreement that rent should suddenly leap out of the chronically depressed rent category.

I find both circumstances troublesome. In my more paranoid moments, I wondered whether this section would be taken advantage of by most of those who apply for chronically depressed rent relief and, in fact, we would leap to the 20 per cent threshold in one fell swoop. I am very concerned about circumstances in which somebody's large brother-in-law shows up at my apartment door and says, "Sign here, kid." I sign the paper and the minister approves it. If I do not sign the paper, the large brother-in-law appears and I am evicted. I am out in the street, my stuff is out there and the lock is changed.

There is something happening in the House.

Ms. E. J. Smith: That is a quorum bell, I imagine.

Mr. Reville: Given that I can only wipe out the section by voting against it, I have tried to amend it to reduce one of the scarier possibilities, that landlords will empty their buildings and rents immediately will go to the threshold. At least, in what I have drafted, the minister has to look at the paper and say it is not coercive. Whatever wet noodle protection that is, I have to go with it.

Mr. Chairman: By the way, that was a quorum call. They found a quorum quickly.

You have heard Mr. Reville's amendment. We cannot drop the amendment and vote on it in the middle of the section. We will have to go back to subsections 88(1) and 88(2) and then deal with Mr. Reville's amendment. Are there any other questions or comments on the amendment before we do that?

Ms. E. J. Smith: On his amendment?

Mr. Chairman: Yes.

Ms. Caplan: It is contrary to the RRAC agreement.

Mr. Reville: It is indeed contrary to the RRAC agreement. Ms. Caplan is absolutely right, as she most often is.

Ms. Caplan: Usually--almost always.

Mr. Reville: Most often is all you get.

Mr. Chairman: We are dealing with subsection 88(1) and--

Mr. Reville: I would like a recorded vote on these sections.

Mr. Chairman: All right. When we get to subsection 88(3), we will do that.

Mr. Reville: No, all of them.

Mr. Chairman: Okay. We will do them one at a time then.

Mr. Reville: This is election time, fellows.

Mr. Chairman: All those in favour of subsection 88(1) as it is in the bill?

The committee divided on whether subsection 88(1) shall stand as part of the bill, which was agreed to on the following vote:

Ayes

Caplan, Epp, Gordon, E. J. Smith

Nays

Reville.

Ayes 4; nays 1.

Ms. E. J. Smith: I have an amendment to subsection 88(2). I have a clause 88(?)^(a) as well; so I will be handing them both out.

Mr. Gordon: We have an amendment to section 88a which we would like to bring forward at this time.

Mr. Chairman: That will be after subsection 88(5).

Ms. E. J. Smith: I want to be sure of procedure here so that Mr. Gordon's amendment is not ahead of mine.

Mr. Chairman: We are dealing with section 88. When section 88 is completed, we will deal with section 88a. We are now dealing with Ms. Smith's amendment, which has just been distributed.

Ms. E. J. Smith moves that subsection 88(2) of the bill be struck out and the following substituted therefor:

"(2) In an application made under section 71 not later than two years after the date this section comes into force in respect of a residential complex any part of which was occupied as a rental unit before the 1st day of January 1976, where,

"(a) the landlord has owned a residential complex throughout the period from the 1st day of November 1982 to the date the application is made; or

"(b) the landlord has acquired the residential complex by inheritance or through foreclosure proceedings from a previous landlord who had owned the residential complex throughout the period from the 1st day of November 1982 to the day of its acquisition by the present landlord, who in turn has owned it until the day the application is made,

"and the minister finds the gross potential rent is a chronically depressed rent, the minister shall allow, in an order made under subsection 80(1), an additional two per cent per year of the gross potential rent until the rent is no longer a chronically depressed rent."

Do you wish to deal with this section independently of the clause 88(2)(a) that you want to move shortly? Is there anything further on Ms. Smith's proposed amendment? Ms. Smith, did you wish to speak to it?

Ms. E. J. Smith: No.

Mr. Reville: As far as I can see, what has happened is we now have another threshold here. There was a threshold where you had to own it since November 1, 1982, which was big flip day. Now we have the threshold that you might have inherited this from your uncle or someone or you foreclosed somehow. I want to know why that has been added.

17:10

Hon. Mr. Curling: I was just trying to find out which one--

Mr. Reville: Yes, for shame.

Hon. Mr. Curling: --was in conformance with what the Rent Review Advisory Committee agreement had suggested on this.

Mr. Reville: It is not in conformity with any RRAC agreement I ever heard of. There is a RRAC member here waiting to get into action. Let us hear from Mr. Schwartz.

Mr. Schwartz: In order to avoid any misunderstanding and treat a building that has been inherited or taken over by foreclosure as a sale, we felt that, unless this is clarified, it could be considered as a new owner. If somebody inherited the building, or took it over by way of foreclosure, that could be interpreted as a change of ownership, as a sale.

Mr. Reville: Thank you, Mr. Schwartz. Does this mean then that the 11,000 units which were foreclosed after November 1, 1982, suddenly are subject to chronically depressed rent relief? Pat Laverty is shaking his head, but I do not know why. Tell my why they are not included.

Mr. Laverty: It was my understanding that those buildings have now been sold. That sale will be completed in the hands of the new owners. They

would not be covered by clause (b), because the foreclosure provision there is to cover the case where an individual has taken back a mortgage--payments have not been interrupted; they are on--and has involuntarily acquired the building, but that protection does not apply to the subsequent purchaser of those buildings. So the purchasers of the nearly 11,000 units in question would not qualify under clause (b).

Mr. Reville: What kind of public interest is being protected here? Do we have any notion of who inherited what or who foreclosed what during the last four years? Somebody knows this answer somewhere out here. The chairman does not know.

Mr. Chairman: I also do not think anybody else does.

Mr. Reville: The government does not know.

Ms. Caplan: It is my understanding this issue was brought to the government by the RRAC, which discussed the desire for clarification to ensure this was not treated as a sale. The motion was brought forward from the RRAC and the government, which has tried consistently to ensure that the bill reflects the RRAC agreement as closely as it can, is putting forward the motion because of the agreement by the RRAC and at its request.

Mr. Schwartz: As far as what Mr. Reville has mentioned is concerned, the recent sale of the former Cadillac buildings obviously is a completely new offer of purchase and certainly would not fall under this section at all. This is a new sale, a new purchase. It is not inherited.

Mr. Reville: If somebody died after November 1, 1982, and left a building to someone else, that is one case. Right? Indeed, the ownership would have been interrupted but not because of a sale. Somebody foreclosed on a building that was owned since November 1, 1982, and now owns the building. I am curious. How many units are we talking about that fall within these odd circumstances?

Mr. Schwartz: I do not think there are that many units that have yet foreclosed.

Ms. Caplan: It is my understanding that it was to define and show the difference between an actual sale of a building during that period of time. It was for clarification. It was an issue raised by the RRAC. I do not think it was based specifically on any individual case. That was my understanding.

Mr. Reville: We have tons of studies on chronically depressed rents. We know it is either 10,000 or 20,000 units, depending on whether it is equity T or equity L. Surely to goodness we know how many people died and left their units to their heirs and how many people foreclosed. Dr. Laverty knows.

Mr. Laverty: I can tell you what Dr. Laverty knows and what he does not know.

Mr. Reville: It would probably be quicker to tell me what you do not know.

Mr. Laverty: We have three thresholds in the original bill as drafted.

Mr. Reville: I know that.

Mr. Laverty: Regarding the 20-per-cent threshold, 11.1 per cent of the units qualify. The purchase or acquisition after 1983 brought the 11.1 per cent down to 5.8 per cent and then the equity test brought it down to one per cent or 2.2 per cent, depending on whether the equity test was as originally--

Mr. Reville: Was the T or the L.

Mr. Laverty: Yes.

Mr. Reville: It is a whole different world here.

Mr. Laverty: The question is how many of the units in the sample have been acquired by means of inheritance. Of the chronically depressed units, we have a readout of the classification by the number who responded. A total of 76 buildings answered the question on possession, of which 62 were purchased, 12 were constructed and two were inherited. That deals with all the buildings that have hit the 20 per cent threshold.

Mr. Reville: Are these largish buildings or smallish buildings?

Mr. Laverty: That is probably a cross-classification we do not have. One can see that only two of the 76 initial buildings were inherited. I could not tell you whether those were inherited before or after November 1, 1982, without an additional cross-tabulation. Those are inherited at any point in time.

Mr. Reville: Should we wait on this?

Mr. Laverty: No, probably not.

Mr. Reville: Somewhat under three per cent, I guess.

Mr. Laverty: Actually, 2.6 per cent of those acquired, chronically depressed buildings on the 20 per cent threshold alone were inherited. Of the cross-classifications, we do not have that level of analysis for you.

Mr. Chairman: We are dealing with subsection 88(2). Ms. Smith has an amendment. Let us deal with Ms. Smith's amendment and then we will move on to clause 88(2)(a), which is also Ms. Smith's amendment, then subsection 88(3), subsection 88(4) and so forth. Then we will get to clause 88(4)(a).

All those in favour of Ms. Smith's amendment to subsection 88(2), please indicate. Carried.

17:20

Ms. Caplan: Mr. Gordon has an amendment.

Mr. Chairman: No, no. Wait a minute. We are dealing with subsection 88(2). We have just dealt with Ms. Smith's amendment. She also has an amendment, if I read it correctly, to subsection 88(2a) which follows from subsection 88(2).

Ms. E. J. Smith: I was not going to distribute this beforehand; this is an addition and I would prefer Mr. Gordon go ahead if possible.

Mr. Chairman: Mr. Gordon, your amendment deals with section 88a. That follows all the other prenumbered sections on 88 right through to the end of subsection 88(5). Then you have section 88a, which is a separate section of the bill.

Mr. Epp: I appreciate that you want to be sequential here; on the other hand, there is a request by Ms. Smith to deal with Mr. Gordon's amendment.

Ms. Caplan: We dealt with Mr. Reville that way.

Mr. Epp: You will find the committee unanimous in this regard. I appreciate what you are trying to do but maybe it is--

Mr. Chairman: I am trying to avoid the problems of dealing with a section out of sequence. I have no objections.

Mr. Gordon moves that the bill be amended by adding thereto the following section:

"88a. The minister shall pay a shelter allowance calculated in the prescribed manner to a tenant who occupies a rental unit in respect of which a chronically depressed rent allowance is being collected under section 88, where the amount of rent being paid by the tenant by virtue of that rent allowance is more than 30 per cent of the tenant's gross income."

Mr. Gordon: My party has put this amendment forward because we want to see that those tenants who live in chronically depressed rental units and are put in a position where they are paying more than 30 per cent of the tenant's gross income receive a direct shelter allowance. We have said in the past we believe that landlords who have chronically depressed units should have the opportunity to rectify the situation. However, we also know that those chronically depressed units are, in many instances, some of the most affordable in this province. We believe we have an obligation to see that these individuals do not lose what we call "affordable housing."

At the same time, we recognize that, rather than paying this rent supplement to a landlord, we should be paying it directly to the tenant. In this manner, it gives tenants the opportunity to choose when they are paying that money towards their rent. The ministry has listened carefully to us in the past. We have discussed this a number of times with the minister, indicating our concern about this matter. We hope the government sees fit to accept this motion.

Mr. Chairman: You have heard Mr. Gordon's amendment. Any other comments on it?

Mr. Fader: May I make a comment?

Mr. Chairman: I know what is coming. This is an amendment that would cost the government money.

Mr. Fader: This is a money motion. It would require a message from His Honour. It can be introduced only by the supplements. That would not, of course, prevent a government member from adopting Mr. Gordon's motion.

Mr. Chairman: That is correct. Mr. Gordon, you have provoked the chair and the chair must rule the amendment out of order since the rules forbid the moving of an amendment that causes expenditure of public funds.

Mr. Gordon: Under the circumstances, given that we recognize the chair and its responsibilities and also legal counsel's sage advice, perhaps the government could respond in a manner that would assuage us.

Hon. Mr. Curling: Mr. Gordon, the amendments coming forward satisfy you and satisfy those tenants you are so concerned about.

Mr. Chairman: Mr. Gordon's amendment to section 88a is ruled out of order. Let us go back to subsection 88(2a).

Ms. E. J. Smith moves that section 88 of the bill be amended by adding thereto the following subsections:

"(2a) Where the minister makes an order that provides for the allowance referred to in subsection 2, any tenant of a rental unit in the residential complex may make a request in the prescribed form to the minister for relief from payment of the allowance.

"(2b) If the minister determines that the tenant making the request meets the prescribed criteria for relief, the minister shall inform the landlord who shall thereupon enter into an agreement containing the prescribed terms with the minister that will provide for payment by the minister to the landlord of that portion of the maximum rent for the affected rental unit that is attributable to the allowance referred to in subsection 2.

"(2c) If the landlord fails to enter into the agreement referred to in subsection 2b, the minister shall order that the portion of the allowance referred to in subsection 2 that affects the maximum rent of the rental unit shall not be charged by the landlord and may provide in the order that the landlord repay to the tenant any amount that is owing to the tenant by reason of the order."

Ms. F. J. Smith: This subsection, as compared to the other one, sees the payment made to the landlord.

Hon. Mr. Curling: This is consistent in respect to the announcement I made about the assured housing policy, in committing myself and the government to any of the situations where the chronically depressed rental units were evident, that we would make sure tenants would not suffer in any respect to their situation caused by that and increased to alleviate those situations that are qualified under chronically depressed rents. Hence, this position will not put any undue hardship on the tenants.

Mr. Reville: This is a new program called the chronically depressed rent supplement, I take it. I do not know whether we get an acronym out of that: CDRS; no acronym there. It has to be the cheapest rent supplement program I have seen in my life. It gives people a buck a month or something like that. We know already that 28 per cent of the people in the chronically depressed rental units of the province have an affordability problem. You are going to give them a buck or two so that their affordability problem will not get worse. Shame on you, minister.

Mr. Jackson: Does the minister have a handle on the approximate cost of this program?

Hon. Mr. Curling: I could ask Dr. Laverty to tell you about how many tenants are in those units. I presume there are people who would come forward to make an application if they have suffered that hardship. What we could tell

you is on the tenant's fee estimate up to the rent that will be placed in this situation.

Mr. Laverty: We made preliminary attempts to estimate what this would cost the Treasury. Our indications are that it would cost something in the order of \$5 million over the first five years of the program; approximately \$1 million a year. There is some small variation up and down.

Mr. Jackson: And the cost to administer?

Mr. Laverty: The administrative procedures for this program have not been fully devised. We would be attempting, no doubt, to the extent that we could, to relate that to the administrative machinery which is largely in place to try to ensure that the additional burden does not lead to large additional staffing requirements. The number of cases involved is expected to be something less than 6,000 tenants at maximum. It is hoped that those people can be accommodated largely within the existing administrative structures of the ministry.

17:30

Mr. Jackson: And the trigger date?

Mr. Laverty: The trigger date for this program will run from the date of proclamation of this section. The appropriate proclamation date for this section of the act has not been determined at this time.

Mr. Jackson: If the minister advises that it came out of his assured housing policy, are we then led to believe it was not a matter of substantive discussion among the members of the Rent Review Advisory Committee?

Hon. Mr. Curling: There was definitely substantial discussion by the RRAC. At that time, the commitment I had with my cabinet colleagues was that we had not made provisions for that amount of money. When it had arisen again, as I said to the committee, because of the hardships that were placed on the tenants, I took the matter back to cabinet and got the approval. Therefore, there was considerable discussion at all levels.

Mr. Reville: There was considerable discussion here too, I might point out.

Mr. Gordon: If I might interject for the last time--

Mr. Chairman: Mr. Jackson, are you finished?

Mr. Jackson: If Mr. Gordon has a supplementary, I will wait.

Mr. Gordon: While I am disappointed that the minister has not chosen to accept our shelter allowance program, I want to compliment him on bringing this program forward. I think it is really needed. If you are going to increase rents to improve the return of those landlords who have chronically depressed apartment units then it is essential that you have, on the other hand, added moneys for those tenants.

I have had many conversations with your people about this matter and I would have preferred a shelter allowance program but the facts of the case are that you have taken the opportunity to address this problem. I think too, as time goes on, because you are dealing with people who have these affordability

problems what will flow out of this will be further benefits to those tenants but that will come only over a period of time.

Hon. Mr. Curling: Of course, Mr. Reville has raised it and it has been raised many times here. Mr. Gordon has raised it a considerable number of times and he has pursued it very ardently. Although at times I sit here and would like to make commitments, I am not the government overall. It did take some time to lay it out to my colleagues. They were very concerned about this situation and we had a proper investigation and a proper survey done to bring it forward. My colleagues responded very favourably. I am glad for that because I was tremendously concerned, just as all my colleagues are here, about those tenants who were placed in that hardship situation, especially when it was over and above the guideline that was being presented.

Mr. Jackson: I reserve my compliments until I determine whether it is new money or whether it is out of your current funds for the assured housing program. I have good reason to be concerned and to ask that question, given that three different ministries of this government are announcing the same money for literacy funding.

Is it new money, Minister, on which you were able to wrestle your cabinet to the floor or is it from your existing budget? I realize you are talking about less than \$1 million in one year, but would your estimates reflect an increase in allocation?

Hon. Mr. Curling: I know where you are going, Mr. Jackson. Whether it is new money or not, I am glad it is going in the direction where it will assist those in need. I can assure you that yes, it is new money.

Mr. Jackson: That is what I was anxious to find out.

My final question concerns the model for payment. Are we talking about the duration of the term of the lease in the event of a vacancy, which, as you well know, is the model within your ministry for that supplement program, or are we talking about actual rental applications where a tenant can possibly leave one landlord prior to the completion of the lease and be eligible for the subsidy and then resurface seeking another lease? His needs would not have changed. Are you in any way going to cease your payment to the first landlord and start it with the second landlord, and to what degree, if you analyse its impact?

Hon. Mr. Curling: When the tenant leaves that unit, the unit no longer has the supplement program going for it, because then the chronically depressed rent situation is removed. As you know, the conditions are that the chronically depressed situation then can be moved up to the maximum rent. Therefore, that unit is no longer supported by this program.

I presume when tenants leave, and we can tell--the access for Ontario Housing went up or they may have gone on to buy their own home--that is not what the program is about. The program is to assist the tenant in that situation at that time. When the tenant leaves, the landlord is then able to move it up to the maximum rent.

Mr. Jackson: I asked a legitimate question based on market conditions. You are dealing with the willingness of a landlord to take on a tenant who may be experiencing some financial difficulties, and he or she has to make a conscious decision that "I will rent with you and I will go through the procedure of applying for funds." I asked it because that is not the way

you constructed your rent supplement program. It was for the duration of the lease. If the tenant leaves, for whatever reason, in the middle of a lease and then resurfaces seeking the subsidy in another location, you are going to pay the subsidy at that location, because it flows with the tenant.

Hon. Mr. Curling: No.

Mr. Jackson: That is what I heard you say.

Hon. Mr. Curling: No.

Mr. Jackson: I know what it is. You can go to another chronically depressed unit because basically you have to find rents that are--

Hon. Mr. Curling: If they went to another chronically depressed unit, which they have to go to when it is vacant, and that landlord did not utilize the program and move the rent to the maximum, then they would have to apply for chronically depressed under those conditions.

Ms. Caplan: This is a provision for existing tenants with an affordability problem to ensure that they are not further affected by Bill 51. It cushions the impact and it relates to the tenant in a chronically depressed rent provision with an affordability problem. It provides that kind of tenant protection. It is an extension of the existing rent supplement program, but that particular feature is unique in that it is someone living in a building where the unit is chronically depressed who would have an affordability problem exacerbated. It is to ensure that does not occur.

When the tenant moves, an entirely new situation occurs. It would not follow--

Mr. Jackson: I understand it. I am asking you on certain market conditions which may surface and it is sufficient that I have raised the concern. I am only wanting to determine if we, in any way, are cushioning the impact beyond the tenant. That is all.

Mr. Chairman: You have heard Ms. Smith's amendment to add subsection 88(2a) to the bill. All those in favour of Ms. Smith's amendment, please indicate? Opposed? Carried. It becomes part of the bill.

Next is subsection 88(3). Mr. Reville has an amendment. It has already been moved.

Mr. Reville: I am going to vote for it.

Mr. Chairman: Any other comments?

Mr. Reville: I was already voting for it, actually.

Mr. Chairman: I gather there is no serious debate? All those in favour of Mr. Reville's amendment to subsection 88(3), please indicate? All those opposed?

Motion negatived.

Subsection 88(4) is as is in the bill. Are we ready for the question?

Mr. Reville's amendment was defeated. Shall subsections 88(3) and 88(4) stand as part of the bill? Carried.

17:40

Mr. Chairman: Mr. Gordon moved that section 88 of the bill be amended by adding thereto the following subsection:

"(4a) Where, on the application of a landlord in respect of whom an order has been made under subsection (4), the minister determines that the standard of maintenance and repair is no longer in a deteriorated state, the minister may order that the landlord may resume the collection of the allowance referred to in subsection (2) or any part thereof or the increase in rent charged for a rental unit pursuant to subsection (3), and may declare the maximum rent that may be charged for the rental unit or units affected."

Mr. Gordon: Essentially, it says that when one takes it away from someone, one has to give it back.

Motion negatived.

Section 88 agreed to.

On section 90:

Mr. Chairman: The next section that was stood down was section 90. There is an amendment from Mr. Reville on subsection 90(1).

Mr. Reville: It seems to me that the government stood this down. I thought I had already moved my amendment. Did I?

Ms. E. J. Smith: I have two amendments for subsections 90(3) and 90(4). I think we could have stood the whole thing down because--

Mr. Reville: I would be happy to move my amendment again.

Mr. Chairman: Mr. Reville moves that subsection 90(1) of the bill be struck out and the following substituted therefor:

"Where a landlord has been awarded a rent increase under this act or the Residential Tenancies Act that was justified, in whole or in part, by a rate increase in financing costs, if at the time the term of the mortgage or other instrument associated with the financing costs expires or is about to expire the minister is of the opinion that the rate of interest required to be paid on a renewal or replacement of the mortgage or other instrument is lower than the interest rate that justified the rent increase that was awarded, the minister shall give notice thereof in writing to the landlord and the tenants of the residential complex that is affected."

Mr. Reville: This is another in a long series of amendments that must be boring to the committee by now, but it is an attempt to improve the act for tenants. It says that if financing costs go down by even one cent, the tenants should get the benefit of that. It takes out the first day of August 1985. It is a good idea. The people want it. You should support it.

Ms. Caplan: This amendment is contrary to the Rent Review Advisory Committee agreement, and we will not be supporting it.

Mr. Reville: I am going to move to strike out the RRAC.

Motion negatived.

Subsections 90(1) and 90(2) carried.

Mr. Chairman: Ms. Smith has an amendment to subsection 90(3) and an addition to subsection 90(4).

Ms. E. J. Smith moves that subsections 90(3) and 90(4) of the bill be struck out and the following substituted therefor:

"90(3) Unless the landlord makes an application under section 71 within the time set out therein, the minister may, on the minister's own motion, determine the amount of rent increase that is no longer justified by reason of the lower interest rate and may order that the maximum rent chargeable for each rental unit in the residential complex as of the date of the order not be increased for a period of time determined in the prescribed manner:

"(4) In making the determination under subsection (3) of the amount of increase that is no longer justified, the minister shall take into account only the matters in respect of which the minister may make findings under clause 72(h)."

Is there anything else, Ms. Smith?

Ms. E. J. Smith: No.

Mr. Chairman: Any comments on Ms. Smith's amendment to subsections 90(3) and 90(4)?

All those in favour please indicate. Those opposed? Carried.

Section 90, as amended, agreed to.

On section 91:

Mr. Chairman: Section 91 is the next deferred section. Do you have an amendment, Ms. Smith?

Mr. Reville: I have something.

Mr. Chairman: Mr. Reville has an amendment.

Mr. Reville: Her amendment is for subsection 91(1a). I do not have any problems with that. She can do that.

Mr. Chairman: Do you have only one amendment, Ms. Smith?

Ms. E. J. Smith: I have one for subsection (1a) only.

Mr. Reville: My amendments relate to subsection 91(4).

Mr. Chairman: Ms. E. J. Smith moves that section 91 of the bill be amended by adding thereto the following subsection:

"(1a) Where the intended rent increase includes a phased-in amount under the authority of section 89 in addition to the amount the landlord is permitted to charge under section 68, the tenant may dispute in accordance with this section that portion of the intended rent increase that is composed of the amount the landlord is permitted to charge under section 68."

Are there any comments on Ms. Smith's amendment? Are we ready for the question on both subsections 91(1) and 91(1a)? All those in favour of subsection 91(1) please indicate. Opposed? Carried. All those in favour of subsection 91(1a) as added by Ms. Smith please indicate. Opposed? Carried.

All those in favour of subsections 91(2) and 91(3) please indicate. Opposed? Carried.

Now we come to subsection 91(4). Those in favour? Opposed? Carried.

Mr. Reville moves that subsection 91 of the bill be amended by adding thereto the following subsections:

"(4a) In considering a change in the services and facilities provided that affect the rental unit the minister may consider the cost of replacing that service or facility to the tenant instead of or as well as the saving in costs experienced by the landlord.

"(4b) Notwithstanding subsections 4 and 5, where the minister determines that a significant change has occurred in the standard of maintenance and repair or in the services and facilities provided that affect other units besides the one for which an application has been made, the minister shall make an order under paragraph 5(a) in respect of those units, and may make an order under paragraph 5(b) in respect of those units."

Mr. Reville: These amendments provide the minister with an opportunity to reflect the experience tenants have when services and facilities are changed. If a service is no longer provided and has to be purchased by the tenant, the minister can reflect the actual cost to the tenant.

These are part of the series of useful suggestions from John Dickie of Ottawa. It should be supported, but it probably will not be by a government that refuses to listen to its people.

Mr. Chairman: Are there any comments on Mr. Reville's amendment?

Ms. Caplan: This does not reflect the RRAC agreement and we will not be supporting it.

Mr. Chairman: All those in favour of Mr. Reville's amendment, please indicate? Opposed?

Motion negatived.

Mr. Chairman: Shall subsections 91(4) through 91(7), inclusive, carry and stand as part of the bill?

Section 91, as amended, agreed to.

17:50

On section 114:

Ms. E. J. Smith: I wish to move a housekeeping amendment so that we may finally pass this bill in a neat and precise order before the ringing of the bell at six o'clock.

Mr. Chairman: Ms. Smith moves that section 114 of the bill be amended by (a) striking out paragraph 3 and substituting the following therefor:

"3. prescribing procedural and interpretive rules and policies to be observed by the minister and the board in interpretation and administration of this Act when exercising any power or discretion conferred under this Act;"

(b) striking out paragraphs 7 and 12; and (c) adding thereto the following paragraphs:

"19a. prescribing, for the purposes of subsections 60a(4) and (5), the form or justification;

"27a. prescribing, for the purposes of subsection 88(2a), the form of a request for relief;

"27b. prescribing, for the purposes of subsection 88(2b), the criteria to be met to qualify for relief;

"27c. prescribing, for the purposes of subsection 88(2b), the terms of an agreement to be entered into under that subsection;

"28a. prescribing, for the purposes of subsection 90(3), the manner of determining the period of time the maximum rent chargeable may not be increased;

"30a. prescribing, for the purposes of section 96, the method of determining maximum rent."

Mr. Reville: I have an important question I have to ask the government whip. How many amendments are there?

Ms. E. J. Smith: More than 100.

Ms. Caplan: I have lost track. I have only 10 fingers.

Mr. Reville: It is a good amendment. I want to vote for this amendment.

Ms. E. J. Smith: Thank you, sir. I am glad you are not asking for a more detailed explanation.

Mr. Chairman: This is going to be a little awkward to get through, but let us try it. We are dealing with part VIII, section 114.

Paragraphs 1 and 2 agreed to.

Paragraph 3, as amended, agreed to.

Paragraphs 4 to 6, inclusive, agreed to.

Paragraph 7 deleted.

Paragraphs 8 to 11, inclusive, agreed to.

Paragraph 12 deleted.

Paragraphs 13 and 13a to 19, inclusive, agreed to.

Paragraph 19a agreed to.

Paragraphs 20 to 27, inclusive, agreed to.

Paragraph 27a agreed to.

Paragraph 27b agreed to.

Paragraph 27c agreed to.

Paragraph 28 agreed to.

Paragraph 28a agreed to.

Paragraph 29 and 30 agreed to.

Paragraph 30a agreed to.

Paragraphs 31 to 35, inclusive, agreed to.

Mr. Chairman: Shall the bill--oh, sorry, before we go any further, we previously passed section 123.

Mr. Reville: I move we reopen it.

Mr. Chairman: We need unanimous consent to reopen it for Mr. Jackson. Is there unanimous consent? Agreed.

On section 123:

Mr. Jackson: I will be brief. The only concern I have is with respect to the repealing of section 73 of the old act. The section refers to the minister's ability to terminate a commissioner, or in this case an administrator, "from office during his term only for misbehaviour or for his inability to perform his duties properly." Then it goes on to advise of certain rights they have that are being removed under that section.

Early in the hearings, I asked the minister whether we might look to him for protection. He assured me of that but I have not seen a section in the act that specifically provides protection for individuals who are currently performing in this capacity on behalf of the province. Therefore, I am moving that the amendments should be only for sections 70 to 72 and not for sections 70 to 73. The minister should have the flexibility to determine the term, but by the same token I at least am reluctant, and I am sure the Minister of Labour (Mr. Wrye) of this province would be reluctant, to deal with these people in any different manner.

Mr. Chairman: You have heard Mr. Jackson's proposed amendment. Are there any comments on it?

Mr. Jackson: I asked the minister about this and he indicated, at the beginning of these hearings, that protection would be forthcoming. That is the reason for the 11th hour presentation. I do not see where in the bill he has protected the approximately 200 persons who are currently performing in this capacity as rent review administrators.

Hon. Mr. Curling: I think the question you are asking me is whether they will be treated fairly in the process and will not in any way be laid off from their jobs. I give you my personal guarantee that they will be treated fairly, that they will be assessed on competence as they are assigned their new jobs. You are suggesting there should be some law that states this. I repeat that they will be treated fairly and that competence will be the first criterion we will look at.

Mr. Jackson: There is a law, the Interpretation Act, which indicates that a government can repeal just about anything it wants unless a certain right, liability or privilege is being surrendered in the process. If the minister by his own admission has not done that check for the rights of those individuals working in his ministry, perhaps we should pause until he has done so. My reading of the Interpretation Act is that we should proceed very cautiously if we are going to remove those rights by a stroke of the pen in section 123. I feel that is dangerous and precedent-setting and that we should proceed very carefully.

Hon. Mr. Curling: It could be dangerous if I were to proceed to wipe everybody out in the process that is in operation now. It would bring complete chaos to the situation. I do not see why I would bring this on myself or the government or the province. These people will be protected. In doing so, it will be in the interest of the government to maintain people who are doing their jobs properly.

Mr. Jackson: You may not always be the government. That is the purpose of providing these protections for the workers of Ontario. The purpose is to make sure it is abundantly clear to the framers of our legislation that we do not rely on the promises of individuals, so that we have entrenched in legislation the protections they assumed when they took on the jobs they have been performing responsibly.

Hon. Mr. Curling: In the past it was mostly like that.

Mr. Jackson: You are removing it from this act. I have given you the quotation. I have provided the chairman with a copy. You can read it for yourself. We are taking away the rights of the individuals who are currently working for the government. This is a precedent in Ontario and I do not wish it to pass. If this is the new way in which you wish to deal with people working for ministries of this government, that is fine, but do not hide behind some promise as to something that has not been done before in this province. I think I have made my point.

Mr. Chairman: You have heard the amendment from Mr. Jackson to section 123. All those in favour of Mr. Jackson's amendment, please indicate. All those opposed?

Motion negatived.

Mr. Chairman: Shall the bill, as amended, carry? Carried.

Bill 51, as amended, ordered to be reported.

Mr. Chairman: May I take this opportunity to thank very much the members of the Rent Review Advisory Committee who have assisted us through this process and the members of the ministry staff, who have helped us expand our knowledge base considerably.

Hon. Mr. Curling: May I take a few seconds to thank all those who have participated in this long battle. It was worth while and a great experience for all of us. All my colleagues on all sides of the House have been tremendous, and also the RRAC members, those who have been in attendance and the staff. Thank you very much.

Mr. Gordon: Usually the minister gets the last word, and normally I would have left it to him to have the last word. I do have to say, on behalf of our party, that we have found the ministry people to be very forthcoming, as they always are. They have impressed me with their dedication and diligence in all the work they have done for this bill. As well, I want to compliment the RRAC members on the work they have done. Obviously, you have spent hours, days, months, and it shows. We have found this to be a splendid exercise.

Mr. Fader: I ask the committee to give me the usual authority to make any consequential amendments that I find may have been overlooked--

Mr. Reville: I have a number to suggest to you.

Mr. Fader: --none of which will change the substance of the amendments, of course.

Mr. Chairman: If there is to be any renumbering and so forth. That is agreed, Mr. Fader.

Mr. Reville: On behalf of the New Democrats on the committee, may I say that my life has been much better for the people who have been involved in this process, and I, too, would like to thank all those who have directed their minds to this difficult problem.

Mr. Chairman: Just so people appreciate the flexibility of members of the Legislature, on Wednesday we begin the estimates of the Ministry of Agriculture and Food. I look forward to seeing you there and I invite the RRAC members to sit in on that too.

The committee adjourned at 6:03 p.m.

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